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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DR. MARKCUS KITCHENS, JR., : CIVIL CASE NUMBER
PLAINTIFF :
 :
VERSUS : 22-3301
 :
UNITED STATES MEDICAL :
LICENSING EXAMINATION, :
DEFENDANTS :

MAY 15, 2023
VIA MICROSOFT TEAMS
PHILADELPHIA, PA 19106

BEFORE THE HONORABLE JOHN F. MURPHY, J.

BENCH TRIAL - DAY 1

APPEARANCES:

DR. MARKCUS KITCHENS, JR.
PRO SE
625 HAMPTON WAY, #2
RICHMOND, KY 40475

LYNN GLIGOR, RMR
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PROCEEDINGS RECORDED BY STENOTYPE-COMPUTER,
TRANSCRIPT PRODUCED BY COMPUTER-AIDED TRANSCRIPTION

1 CONTINUED APPEARANCES:

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COUNSEL FOR THE DEFENDANT

1 THE COURT: GOOD MORNING, EVERYONE.

2 DR. KITCHENS: GOOD MORNING, YOUR HONOR.

3 MS. MEW: GOOD MORNING, YOUR HONOR.

4 THE COURT: LET'S SEE, I BELIEVE WE HAVE
5 A REPORTER ON THE LINE. LYNN, ARE YOU THERE?

6 COURT REPORTER: YES, I AM HERE, JUDGE.
7 GOOD MORNING.

8 THE COURT: GOOD MORNING.

9 LET ME CALL THE CASE, THIS IS 22-CV-3301,
10 IT'S DR. MARKCUS KITCHENS, JR. VERSUS NATIONAL BOARD OF
11 MEDICAL EXAMINERS.

12 LET ME HAVE -- DR. KITCHENS, COULD YOU
13 PLEASE INTRODUCE YOURSELF AND ANYONE ELSE YOU WOULD LIKE
14 TO INTRODUCE AT THIS TIME.

15 AND THEN I WILL GO TO THE DEFENDANT.

16 DR. KITCHENS: YES. GOOD MORNING, YOUR
17 HONOR. DR. MARKCUS KITCHENS, AND I WOULD LIKE TO
18 INTRODUCE DR. CHRISTOPHER PULLINS.

19 THE COURT: OKAY. VERY WELL.

20 HI, DR. PULLINS.

21 DR. PULLINS: GOOD MORNING.

22 THE COURT: NOW, MS. MEW, WOULD YOU
23 PLEASE INTRODUCE YOURSELF AND ANYONE YOU HAVE WITH YOU.

24 MS. MEW: GOOD MORNING, YOUR HONOR,
25 CAROLINE MEW FOR THE NATIONAL BOARD OF MEDICAL

1 EXAMINERS. AND IN MY OFFICE IS PARALEGAL CHRISTINE
2 MARSTILL. AND THEN WE ARE JOINED THIS MORNING WITH
3 LINDA GADSBY, WHO IS GENERAL COUNSEL FOR THE NATIONAL
4 BOARD OF MEDICAL EXAMINERS, AND SUZANNE WILLIAMS, WHO IS
5 ALSO IN-HOUSE COUNSEL FOR THE NATIONAL BOARD OF MEDICAL
6 EXAMINERS.

7 THE COURT: GOOD MORNING, EVERYONE.

8 ALL PRESENT: GOOD MORNING, YOUR HONOR.

9 THE COURT: DR. KITCHENS, GO AHEAD.

10 DR. KITCHENS: I'M SORRY, YOUR HONOR. I
11 WOULD LIKE -- IN THE PRESENCE WITH ME HERE IS MY WIFE,
12 AMELIA KITCHENS.

13 THE COURT: VERY GOOD. AND THEN LET'S
14 SEE, I SEE A COUPLE OF PEOPLE ON LINE.

15 DR. KITCHENS, ARE THEY WITH YOU?

16 DR. KITCHENS: YES, MISSIE KING IS HERE,
17 AND I'M NOT SURE WHO ELSE.

18 THE COURT: ALL RIGHT. NOW, AT THE
19 PRETRIAL CONFERENCE DEFENDANT ASKED FOR WITNESS
20 SEQUESTRATION. SO FOR FACT WITNESSES WHO HAVE NOT YET
21 TESTIFIED, THEY SHOULD NOT LISTEN IN ON THE PROCEEDINGS
22 OR TESTIMONY OF OTHER WITNESSES. THEY ARE WELCOME TO
23 LISTEN TO OPENING STATEMENTS, BUT FOR -- IF YOU HAVE,
24 DR. KITCHENS, A FACT WITNESS WHO IS GOING TO TESTIFY,
25 THEY SHOULD NOT LISTEN IN ON ANYTHING OTHER THAN THE

1 OPENING STATEMENTS UNTIL THEY TESTIFY, OKAY?

2 DR. KITCHENS: YES, SIR, THAT IS
3 UNDERSTOOD.

4 THE COURT: ALL RIGHT. ONE OTHER
5 PRELIMINARY POINT, AND I WILL TURN IT OVER TO YOU ALL TO
6 SEE IF YOU HAVE ANY QUESTIONS FOR ME THIS MORNING. BUT
7 ONE PRELIMINARY POINT I JUST WANTED TO MAKE IS WE ARE
8 DOING THIS BENCH TRIAL BY VIDEO, WHICH HAVING DONE AT A
9 PRELIMINARY INJUNCTION HEARING IN THIS MATTER, THIS
10 GROUP OF PEOPLE SEEM PRETTY EFFECTIVE AT GETTING
11 EVERYTHING DONE EFFICIENTLY AND USING THIS FORMAT WELL,
12 WHICH IS GREAT, BUT I DO WANT TO REMIND EVERYONE THAT WE
13 ARE ATTEMPTING TO SIMULATE A COURTROOM LIKE ENVIRONMENT.
14 SO IT'S EXPECTED THAT THE THE DECORUM OF A COURTROOM
15 WILL APPLY HERE. ONLY ONE PERSON SHOULD SPEAK AT A
16 TIME. SO WE EXPECT EVERYONE TO MAINTAIN A GOOD DECORUM.
17 IF SOMEONE NEEDS TO INTERPOSE AN OBJECTION IN COURT, YOU
18 WANT STAND UP TO GET A SIGNAL. ON VIDEO, YOU MIGHT JUST
19 HAVE TO INTERRUPT AND SAY "OBJECTION," THAT'S FINE. WE
20 WILL ALL HAVE AN UNDERSTANDING WITH EACH OTHER THAT WE
21 ARE WORKING WITH THE VIDEO FORMAT AS BEST WE CAN, OKAY?

22 DR. KITCHENS: UNDERSTOOD.

23 THE COURT: OKAY. BEFORE WE GET GOING
24 WITH PRESUMABLY OPENING STATEMENTS, DR. KITCHENS OR MS.
25 MEW, DO EITHER OF YOU HAVE ANYTHING FOR ME?

1 MS. MEW: I DO, YOUR HONOR.

2 DR. KITCHENS, I DIDN'T KNOW IF YOU HAD
3 ANY IF YOU WANTED TO GO FIRST.

4 DR. KITCHENS: YOU CAN, GO AHEAD.

5 MS. MEW: OKAY. I JUST WANTED TO FOLLOW
6 UP AND MAYBE CLARIFY A FEW THINGS AFTER A BUNCH OF
7 ISSUES THAT CAME UP IN OUR PRETRIAL CONFERENCE, YOUR
8 HONOR.

9 FIRST, I WANT TO CLARIFY THAT I
10 UNDERSTAND THE MARCHING ORDERS GOING FORWARD. SO WHEN
11 DR. KITCHENS TESTIFIES, HE IS ALLOWED TO TESTIFY IN
12 NARRATIVE FORM. IT'S MY UNDERSTANDING THAT I CAN RAISE
13 EVIDENTIARY OBJECTIONS AT THAT TIME, BUT I CAN ALSO
14 RESERVE MY OBJECTIONS FOR EITHER A BREAK IN THE
15 TESTIMONY OR AFTER THE FACT IN WRITING.

16 THE COURT: YES. WELL, I WOULD SAY LET'S
17 DO IT DURING THE TRIAL, ONLY BECAUSE I AM FINE IF DR.
18 KITCHENS IS EXPLAINING SOMETHING IN NARRATIVE FORMAT,
19 AND YOU WANT TO INTERPOSE -- YOU WANT TO RAISE AN
20 OBJECTION AT THE NEXT BREAK, THAT WILL ACTUALLY HELP US
21 IN TWO WAYS. ONE, IT WILL ALLOW DR. KITCHENS TO GET
22 THROUGH HIS TESTIMONY IN A COMPACT WAY, ESPECIALLY WITH
23 THE VIDEO FORMAT; AND TWO, IT WILL STILL GIVE YOU THE
24 OPPORTUNITY TO OBJECT AND DR. KITCHENS A CHANCE TO
25 ADDRESS THAT OBJECTION. SO EITHER DURING TESTIMONY, IF

1 IT WORKS, OR AT A BREAK IS GOING TO BE FINE AS WELL. I
2 AM NOT GOING TO HOLD YOU -- YOU DON'T HAVE TO MAKE YOUR
3 OBJECTION AT THE MOMENT. LET'S DO THE OBJECTIONS ON THE
4 RECORD DURING THE TRIAL RATHER THAN IN WRITING, OKAY?

5 MS. MEW: YOUR HONOR, I WOULD JUST LIKE
6 TO RAISE AN ISSUE WITH THAT, BECAUSE THE TESTIMONY DOES
7 GET LONG AND I WILL BE LISTENING TO IT FOR SUBSTANCE AS
8 WELL, SO I WILL HAVE TO KEEP TRACK OF CROSS EXAMINATION
9 AS WELL AS ANY OTHER EVIDENTIARY ISSUES THAT ARE COMING
10 WHAT COULD BE A A VERY LONG LINE OF DISCUSSION.

11 SO AGAIN, IF THE TRADE OFF BETWEEN HIM
12 HAVING TO POSE QUESTIONS AND ANSWERS WHICH WOULD ALLOW
13 AN OBJECTION TO THE QUESTION, AND THEN TO FOCUS ON THE
14 ANSWERS I THINK -- I AM NOT SURE THAT IT'S A FAIR TRADE
15 OFF, YOUR HONOR, AND IT MIGHT ALLOW FOR SOME THINGS TO
16 GET MISSED.

17 THE COURT: I HEAR YOU, BUT I ALSO -- IN
18 ALMOST ALL SITUATIONS WHEN THERE IS AN OBJECTION, THERE
19 SOMETIMES NEEDS TO BE AN OPPORTUNITY TO HEAR IT IN A
20 DISCUSSION.

21 WELL, LET'S DO THIS, LET'S -- I AM GOING
22 TO STICK WITH WHAT I SAID. WE WILL TRY TO DO THE
23 OBJECTIONS AT THE MOMENT OR AT A BREAK. IF YOU GET
24 CAUGHT IN A BIND, I'M NOT GOING TO FORECLOSE YOU FROM
25 MAKING AN OBJECTION LATER, BUT I WILL JUST WARN YOU NOW

1 THAT IF IT PUTS ME IN A SITUATION WHERE YOU MAKE AN
2 OBJECTION LATER AND I REALLY NEED TO HEAR FROM DR.
3 KITCHENS ON THAT OBJECTION, I'M GOING TO HAVE TO FIGURE
4 OUT SOME WAY OF DOING THAT. OKAY?

5 MS. MEW: OKAY. I UNDERSTAND YOUR RULING
6 ON THAT.

7 AND THEN JUST SO UNDERSTAND, THIS -- THAT
8 ONLY APPLIES TO WHEN DR. KITCHENS IS GIVING HIS
9 NARRATIVE TESTIMONY, WE ARE OTHERWISE PROCEEDING IN THE
10 ORDINARY COURSE WHERE WE WOULD HAVE OBJECTED AT THE
11 TIME?

12 THE COURT: CORRECT. OBJECTIONS SHOULD
13 BE INTERPOSED BETWEEN -- AFTER THE QUESTIONS, THAT'S
14 RIGHT.

15 MS. MEW: OKAY.

16 AND I JUST WANT TO MAKE SURE I UNDERSTAND
17 TOO. WE HAD DEPOSITION DESIGNATIONS FOR ONE WITNESS.
18 AND WE WILL BE FILING THOSE AND ANY OBJECTIONS AT THE
19 CONCLUSION OF THE TRIAL, IS THAT CORRECT?

20 THE COURT: YES, IF YOU ARE READY TO DO
21 THEM AT THE END OF THE TRIAL, THAT'S FINE. I CAN ALSO
22 SET A DEADLINE. IF YOU ARE ALL BUSY, IF YOU NEED A WEEK
23 TO PULL THAT TOGETHER, THAT'S FINE.

24 MS. MEW: THANK YOU, YOUR HONOR.

25 AND THE EXPECTATION IS THAT AT THE END OF

1 TRIAL THERE WILL BE A RULING FROM THE BENCH, BUT WE BE
2 WILL FILING PROPOSED FINDINGS OF FACTS AND CONCLUSIONS
3 OF LAW?

4 THE COURT: THAT'S MY EXPECTATION THAT WE
5 WOULD HAVE POST TRIAL BRIEFING. AND THE REASON FOR THAT
6 IS THERE ARE -- WE WERE NOT ABLE TO REACH UNITY ON
7 EXACTLY WHAT LEGAL QUESTIONS ARE. THEY ARE VERY SIMILAR
8 WHAT IS PROPOSED, BUT THEY ARE SLIGHTLY DIFFERENT. SO I
9 DON'T WANT -- IN ORDER FOR ME TO RULE FROM THE BENCH, I
10 WOULD HAVE TO RESOLVE THOSE DISPUTES DURING THE TRIAL OR
11 HAVE THEM ALREADY RESOLVED ALREADY, WHICH I AM NOT GOING
12 TO DO. WE WILL DO THAT POST TRIAL.

13 AND AT THE END OF THE TRIAL WE WILL
14 DISCUSS THE SCHEDULE FOR THAT.

15 MS. MEW: THANK YOU, YOUR HONOR.

16 AND I DON'T MEAN THIS TO BE A VERY LONG A
17 LAUNDRY LIST, BUT JUST A FEW OTHER THINGS.

18 WITH EXHIBITS, OUR PARALEGAL WILL HELP
19 STREAMLINE THINGS. THE PARTIES ACTUALLY HAD I THINK
20 VERY FEW OBJECTIONS TO SORT OF THE BULK OF THE EXHIBITS
21 HERE, AND I KNOW YOU HAD MENTIONED IN THE PRETRIAL GOING
22 THROUGH THE AUTHENTICATION AND FOUNDATION PROCESS AND
23 INTRODUCING EXHIBITS. BUT I AM ALSO WONDERING IF WE
24 MIGHT BE ABLE TO STREAMLINE THAT WITH RESPECT TO SOME OR
25 WHERE IF IT'S DISCUSSED AND THEN WE CAN DISCUSS IT AT

1 THE END OF THE DAY WHAT CAME OUT IN TESTIMONY. BUT IF
2 THERE IS A SPECIFIC OBJECTION, THAT THAT SHOULD BE
3 RAISED AT THE TIME THE EXHIBIT IS FIRST PUBLISHED.

4 DOES THAT MAKE SENSE?

5 THE COURT: IT DOES.

6 MS. MEW: IF DR. KITCHENS AGREES, OF
7 COURSE.

8 THE COURT: YEAH, WELL, SO BY ALL MEANS
9 ANY EXHIBITS YOU CAN AGREE ON TO MOVE THEM IN JOINTLY IS
10 WONDERFUL, AND WITHOUT OBJECTION IT IS GREAT. AND I'M
11 NOT GOING TO STAND ON PRINCIPLE AND MAKE YOU LAY A
12 FOUNDATION FOR AN EXHIBIT YOU BOTH WANT ADMITTED, THAT'S
13 -- I AM NOT WORRIED ABOUT THAT. SO ANY AGREEMENTS ARE
14 FINE BY ME.

15 OTHERWISE, YEAH, YOU WOULD JUST PROCEED
16 IN THE USUAL COURSE OF INTRODUCING THE EXHIBIT WITH THE
17 WITNESS AND MOVE FOR ITS ADMISSION. IF YOU FORGET AND
18 YOU MOVE LATER, THAT'S OKAY, BUT LET'S TRY TO GET THAT
19 ALL IN THE RECORD IN THE CASE.

20 AND AN OBJECTION SHOULD BE INTERPOSED
21 PREFERABLY AT THE TIME, BUT AT LEAST DURING THIS TRIAL
22 SO YOU HAVE THE OPPORTUNITY TO CURE IT. JUST A SIMPLE
23 EXAMPLE IS IF YOU ARE ASKING A WITNESS SOME QUESTIONS
24 ABOUT A DOCUMENT AND THERE'S AN OBJECTION ON JUST
25 FOUNDATION GROUNDS, THAT'S A PERFECT OPPORTUNITY TO ASK

1 THE WITNESS A FEW MORE QUESTIONS. SO IT'S GOOD TO DO
2 THAT AS WE ARE GOING.

3 MS. MEW: THANK YOU, YOUR HONOR.

4 AND JUST ON THE POINT ABOUT EXHIBITS. WE
5 ARE STILL TRYING TO FIGURE OUT -- WE JUST RECEIVED THE
6 COPIES OF PLAINTIFF'S EXHIBITS ON SATURDAY MORNING, AND
7 THERE ARE STILL SOME ISSUES WITH CERTAIN INCOMPLETE
8 PAGES, AND IT WAS A BIT OF A RUSH TO GET ON TOP OF IT.
9 SO I JUST WANT TO MAKE SURE THAT WE CAN EITHER SEE THE
10 FULL DOCUMENT OR -- IF SOME OF THOSE TYPES OF ISSUES ARE
11 BROUGHT UP.

12 THERE WERE ALSO SOME NEW DOCUMENTS THAT
13 WERE NOT PREVIOUSLY PRODUCED TO US THAT WERE PART OF
14 THIS SATURDAY COLLECTION, SO WE CAN, I GUESS, ADDRESS
15 THOSE AS THEY COME UP.

16 THE COURT: YES. SO ANYTHING -- I SORT
17 OF HAVE TWO CONCERNS. ONE IS, ANYTHING THAT ONE OF YOU
18 SHOWS TO A WITNESS THE OTHER SIDE OUGHT TO HAVE THAT
19 COMPLETE DOCUMENT. IF IT NEEDS TO BE SENT AND WE WOULD
20 NEED TO TAKE A LITTLE BREAK SO YOU CAN E-MAIL IT, THAT'S
21 FINE. BUT IF YOU ARE USING A DOCUMENT, THE OTHER SIDE
22 NEEDS TO HAVE A COPY OF THAT. THAT'S ONE CONCERN.

23 THE SECOND CONCERN IS IF YOU MOVE FOR
24 ADMISSION OF SOMETHING, I NEED TO KNOW WHAT IT IS. SO
25 IF YOU GET -- IF WE GET CAUGHT IN A SITUATION WHERE

1 THERE IS A DISPUTE OVER MOVING AN EXHIBIT INTO EVIDENCE
2 AND WE ARE NOT ALL ON THE SAME PAGE AS TO WHAT IT IS, WE
3 WILL HAVE TO RESOLVE THAT BY SHARING IT AMONGST
4 OURSELVES AND THEN I CAN MAKE A RULING.

5 MS. MEW: THANK YOU, YOUR HONOR.

6 THE COURT: GO AHEAD, DR. KITCHENS.

7 DR. KITCHENS: YES, YOUR HONOR, FOR THE
8 THOSE EXHIBITS THAT I THINK MS. MEW IS PROBABLY SPEAKING
9 OF, I DID SEND IN ALL OF THOSE PARTICULAR PAGES, AND I
10 THINK THOSE ARE THE ONES THAT I FILED. AND I THINK I
11 SENT YOU OVER, MS. MEW, A COURTESY COPY OF THOSE.

12 MS. MEW: YOU DID. YOU SENT ME A COPY OF
13 YOUR EXHIBIT. I THINK MY ONLY POINT -- I AM PREVIEWING
14 THIS A LITTLE BIT, BECAUSE I THINK WE ARE GOING TO HAVE
15 TO DEAL WITH IT WHEN THE EXHIBIT COMES UP BECAUSE I
16 CAN'T DO A LAUNDRY LIST. THERE'S STILL SOME THAT DON'T
17 APPEAR TO BE COMPLETE, AND THEN AS I SAID, YOU JUST SENT
18 NEW DOCUMENTS ON SATURDAY THAT WERE NOT PRODUCED IN
19 DISCOVERY WERE NOT PREVIOUSLY ON ANY EXHIBIT
20 DESIGNATIONS. SO AGAIN, I WILL RESERVE ANY OBJECTIONS
21 ON THAT, BUT I AM JUST MENTIONING THAT THAT IS AN ISSUE.

22 AND THEN JUST ONE OTHER POINT, YOUR
23 HONOR, AND I PROMISE THIS IS MY LAST CLARIFICATION
24 QUESTION.

25 SO I UNDERSTAND THAT DR. KITCHENS'S WIFE

1 IS PARTICIPATING IN THIS PROCEEDING TO HELP HIM WITH
2 EXHIBITS. AND WHEN WE WERE DISCUSSING THIS ON FRIDAY, I
3 REALIZED I WAS NOT SURE IF THIS WAS ALREADY IN THE
4 RECORD. BUT DR. KITCHENS'S WIFE IS A LAWYER, AND I KNOW
5 THAT SHE HAS BEEN APPROVED TO HELP WITH SORT OF THE
6 PROCESS WITH THE EXHIBITS.

7 I THINK WE WOULD OBJECT TO THE EXTENT
8 THAT IF HIS WIFE IS PARTICIPATING IN THIS PROCEEDING IN
9 ANY OTHER CAPACITY BESIDES PULLING UP EXHIBITS WITHOUT
10 ENTERING AN APPEARANCE AND ACTUALLY REPRESENTING DR.
11 KITCHENS ON THE RECORD.

12 THE COURT: SURE, THAT'S FINE, YOU CAN
13 MAKE THAT OBJECTION. THAT'S SOMETHING I WAS AWARE OF
14 AND SENSITIVE TO, AS I AM SURE DR. KITCHENS AND HIS WIFE
15 ARE. SO IT'S FINE TO MAKE THAT OBJECTION. I HOPE WE
16 ARE ALL ON THE SAME PAGE ABOUT THAT, BUT I HEAR WHAT YOU
17 SAID.

18 THE COURT: ANY OTHER QUESTIONS BEFORE WE
19 GET GOING?

20 DR. KITCHENS: YES. ONE THING THAT I DO
21 HAVE, YOUR HONOR, IS THAT I WOULD LIKE TO JUST MAKE IT
22 AWARE TO THE COURT AND TO APOLOGIZE IN ADVANCE IF I TEND
23 TO WALK A LITTLE BIT OVER SOMEONE. I WAS GIVEN
24 INFORMATION THIS MORNING OF A LONGTIME FRIEND WHO PASSED
25 AWAY THIS MORNING, AROUND 2 O'CLOCK THIS MORNING. SO I

1 WOULD LIKE TO RIGHT NOW APOLOGIZE IN ADVANCE FOR THAT IF
2 I AM NOT ON THE TOP OF MY GAME.

3 THE COURT: MY CONDOLENCES. I AM VERY
4 SORRY TO HEAR THAT.

5 AND IT'S ALWAYS -- THE Q AND A FORMAT OF
6 A TRIAL IS ALWAYS A CHALLENGE, VIDEO ADDS AN ADDITIONAL
7 CHALLENGE. WE WILL JUST ALL TRY TO REMAIN PATIENT WITH
8 EACH OTHER, BEARING IN MIND, AT LEAST FROM MY POINT OF
9 VIEW, WHAT IS SUPER IMPORTANT IS CLARITY FOR THE RECORD,
10 BECAUSE, YOU KNOW, WE HAVE LYNN WHO IS TRANSCRIBING
11 THIS, WRITING THIS DOWN. AND IF WE TALK OVER EACH
12 OTHER, IT'S GOING TO MAKE IT HARD TO UNDERSTAND WHAT WAS
13 SAID ON THE RECORD. SO ANY TIME THERE IS THE
14 OPPORTUNITY TO TAKE AN EXTRA BREATH AND BE PATIENT WITH
15 YOUR WORDS, IT'S GOING TO HELP EVERYBODY.

16 DR. KITCHENS: UNDERSTOOD, YOUR HONOR.
17 THANK YOU.

18 THE COURT: YES. I THINK WE HAVE BEEN
19 WORKING TOGETHER ON THE CASE LONG ENOUGH, I HOPE YOU
20 KNOW THIS. I AM NEVER GOING TO STOP YOU FROM SAYING
21 WHAT YOU NEED TO SAY, IT JUST HAS TO HAPPEN IN THE RIGHT
22 ORDER WITH NO ONE TALKING OVER EACH OTHER.

23 DR. KITCHENS: SOUNDS GOOD.

24 THE COURT: OKAY. NOW, ARE WE READY FOR
25 OPENINGS?

1 MS. MEW: YES, THANK YOU, YOUR HONOR. I
2 APPRECIATE YOUR PATIENCE.

3 THE COURT: OKAY.

4 DR. KITCHENS, THE FLOOR IS YOURS.

5 DR. KITCHENS: OKAY. GOOD MORNING, YOUR
6 HONOR.

7 AND IF IT PLEASES THE COURT, I AM HERE
8 TODAY TO A PROFOUND SENSE OF GRIEVANCE, AS I HAVE BEEN
9 SUBJECTED TO AN UNJUST TREATMENT AND DISCRIMINATION BY
10 THE INSTITUTION THAT SHOULD EXEMPLIFY FAIRNESS AND
11 PROGRESS AND INCLUSIVITY AND ITS SERVICE TO OTHERS.

12 FROM THE EARLIEST MOMENTS OF MY MEMORY, I
13 HAVE CARRIED THE -- THIS INNATE PASSION TO WANT TO HEAL
14 AND TO ASSIST THOSE IN NEED. UNFORTUNATELY, THIS
15 CHERISHED DREAM OF MINE OF BECOMING A LICENSED MEDICAL
16 PRACTITIONER HAS BEEN ESSENTIALLY SHATTERED DUE TO THE
17 ACTIONS BY THE NATIONAL BOARD OF MEDICAL EXAMINERS.

18 AND THIS CASE EXTENDS BEYOND A MERE
19 EXAMINATION OR A SINGULAR SCORE. IT DELVES INTO A CORE
20 PRINCIPLE THAT EVERY INDIVIDUAL POSSESSES AN INHERENT
21 RIGHT TO PURSUE THEIR CHOSEN PROFESSION FREE FROM
22 DISCRIMINATION BASED ON THEIR DISABILITIES, BOTH
23 PRESENTLY AND IN THE FUTURE.

24 WHILE I BEAR A MENTAL IMPAIRMENT THAT
25 SIGNIFICANTLY RESTRICTS MY MAJOR ASPECTS OF MY LIFE,

THIS DOES NOT DIMINISH MY ABILITY TO UNDERMINE BY
DIVERSE AND MY ABLENESS TO BE ABLE TO FULFILL MY
ASPIRATIONS OF BECOMING A LICENSED PHYSICIAN.

THROUGHOUT MY LIFE, I HAVE RELENTLESSLY ADAPTED, ACCOMMODATED AND SURMOUNTED TO THE CHALLENGES THAT POINTS TO MY DISABILITY. BUT REGRETTABLY, THE NBME HAS DENIED ME REASONABLE ACCOMMODATIONS ESSENTIAL FOR UNDERTAKING THE EXAMINATIONS AND PROGRESSING ALONG THE PATH TOWARDS BECOMING A LICENSED CLINICAL PHYSICIAN. INSTEAD OF FULFILLING THEIR OBLIGATIONS, THE NBME SEEKS REFUGE, AND IN PART A DUTY, IN IMPOSING ARBITRARY AND DISCRIMINATORY CRITERIA THAT COULD EFFECTIVELY AND INDEFINITELY OBSTRUCT MY INTERESTS INTO CLINICAL PRACTICE.

YOUR HONOR, I IMPORE YOU TO RECOGNIZE
THE INHERENT HUMAN ELEMENT WITHIN THIS CASE. I AM NOT
JUST MERELY AN ABSTRACTION OF A DOCUMENT OR A PIECE OF
PAPER, BUT I AM A LIVING, BREATHING INDIVIDUAL WITH
GENUINE HOPES, DREAMS AND ASPIRATIONS. THE JOURNEY I
HAVE UNDERTAKEN TO REACH THIS JUNCTION HAS BEEN RIDDLED
WITH COUNTLESS OBSTACLES THAT I HAVE MANAGED TO
OVERCOME. IT IS PROFOUNDLY DISHEARTENING TO CONTEMPLATE
THE PERSPECTIVE OF BEING BARRED FROM PURSUING MY PASSION
DUE TO ACTIONS PORTRAYED TO ME BY THE NBME.

THE FORTHCOMING EVIDENCE WILL CLEARLY

1 DEMONSTRATE THAT DESPITE PRESENTING COMPREHENSIVE
2 DOCUMENTATION VERIFYING MY DISABILITY AND NECESSITY FOR
3 REASONABLE ACCOMMODATIONS, THE NBME CALLOUSLY REFUSED TO
4 AFFORD ME THE OPPORTUNITY TO BE ASSESSED ON THE MERITS
5 OF MY SKILLS AND COMPETENCE. IT IS CRUCIAL TO RECOGNIZE
6 THAT MY MENTAL IMPAIRMENT JUST DOES NOT DELAY FOR ME OR
7 THE UNDERSTANDING OF MY IDENTIFICATION NOR RESTRICT MY
8 POTENTIAL TO EXCEL AS A PHYSICIAN.

9 WHEN I COME TO LOOK AT THE THINGS THAT
10 ARE GOING ON AND WAS DISCRIMINATED AGAINST, IT IS
11 APPROPRIATE FOR THE ACCOMMODATIONS IN PLACE. I AM FULLY
12 CAPABLE AND RESOLUTE IN MY DETERMINATION TO BECOME A
13 PASSIONATE AND ACCOMPLISHED PHYSICIAN. THE
14 RESPONSIBILITY OF DETERMINING MY DISABILITY, INCLUDING
15 THE EXTENT OF IT, DOES NOT LIE WITHIN THE JURISDICTION
16 OF THE NATIONAL BOARD OF MEDICAL EXAMINERS.

17 IT IS ESSENTIAL TO RECOGNIZE THAT THE
18 AMERICANS WITH DISABILITIES AMENDMENT ACT ENACTED BY
19 CONGRESS IN 2008 AND THE DEPARTMENT OF JUSTICE HAVE
20 UNEQUIVOCALLY STIPULATED THAT THE DETERMINATION OF AN
21 INDIVIDUAL'S DISABILITY SHOULD BE INTERPRETED
22 EXPANSIVELY. THE EVIDENCE AT HAND SUBSTANTIATES THIS
23 CLAIM, BOTH MY PREVIOUS APPLICATIONS SUBMITTED TO THE
24 NBME ALONG WITH THE ACCOMPANYING DOCUMENTATION VIVIDLY
25 ILLUSTRATES THE SEVERITY OF MY ADHD AND ANXIETY, MEETING

1 THE CRITERIA ESTABLISHED BY THE ADA FOR CLASSIFICATION
2 AS A DISABILITY.

3 CONSEQUENTLY, I BECAME ELIGIBLE FOR THIS
4 ACCOMMODATIONS IN JANUARY WHEN I APPLIED IN AUGUST 2022,
5 AND PERSISTENTLY REMAINED ELIGIBLE AS I STAND BEFORE YOU
6 TODAY.

7 I PRESENT A SINGULAR CLAIM AGAINST THE
8 MDME, THEIR VIOLATION OF THE AMERICANS WITH DISABILITIES
9 ACT THROUGH THEIR FAILURE TO PROVIDE APPROPRIATE
10 ACCOMMODATIONS FOR MY DISABILITY. THROUGH THIS CLAIM, I
11 RESPECTFULLY REQUEST THAT THIS ESTEEMED COURT RECTIFY
12 THE NBME'S WRONGFUL ACTIONS BY GRANTING MY PLEA FOR
13 REASONABLE ACCOMMODATIONS, SPECIFICALLY DOUBLE TIME AND
14 BY EXPUNGING MY EXAMINATION TRANSCRIPT THAT INACCURATELY
15 REFLECTS MY PROFICIENCY IN THE FIELD OF MEDICINE, AN
16 ENORMOUS RECORD THAT WOULD FOLLOW ME BASICALLY FOR THE
17 DURATION OF MY CAREER.

18 AS I AM FULLY AWARE OF THIS UNPRECEDENTED
19 NATURE OF THE RELIEF SOUGHT, I ACKNOWLEDGE THE PROFOUND
20 SIGNIFICANCE ATTACHED TO IT. THOUGH THE LANGUAGE
21 ARTICULATED IN TITLE III STRICTLY CONFINES THE
22 AVAILABILITY REMEDIES TO INJUNCTIVE RELIEF.

23 YOUR HONOR, INJUNCTIVE RELIEF SERVES AS A
24 FORMITTABLE TOOL FOR WHICH THE LEGAL SYSTEM CAN
25 SAFEGUARD THE RIGHTS AND INTERESTS OF THE PUBLIC,

1 INCLUDING MY OWN.

2 THIS CRUCIAL REMEDY HAS GIVEN ME AND HAS
3 THE CAPACITY TO PREVENT IRREPARABLE HARM AND INSURES THE
4 EQUITABLE DISPENSATION OF JUSTICE. IT IS SELF-EVIDENT
5 THAT THE DECISION THAT YOU ARE POSED TO RENDER WILL
6 VIBRATE FAR BEYOND MY INDIVIDUAL CIRCUMSTANCES
7 RESONATING WITH EXAMINEES NATIONWIDE. BY EXPUNGING MY
8 DISCRIMINATORY EXAMINATION TRANSCRIPT, YOU WILL NOT ONLY
9 SAFEGUARD MY EXISTING RIGHTS, BUT ALSO FORTIFY MY FUTURE
10 RIGHTS UNDER THE ADA.

11 THIS WOULD ALLOW ME TO DEMONSTRATE MY
12 APTITUDE BASED ON MY KNOWLEDGE RATHER THAN BEING
13 UNFAIRLY JUDGED BY MY DISABILITY. IT IS IMPORTANT TO
14 UNDERSCORE THAT IT IS NOT AN ATTEMPT TO HAVE A SECOND
15 BITE AT THE APPLE, BUT RATHER TO SEEK THE FIRST
16 OPPORTUNITY THAT WAS WRONGFULLY DENIED TO ME FROM THE
17 OUTSET.

18 YOUR HONOR, I AM AN AFRICAN AMERICAN
19 MALE. I WAS HAVING AN UPBRINGING THAT TOOK PLACE IN A
20 SINGLE PARENT HOUSEHOLD UNDER THE CARE OF MY TEENAGED
21 MOTHER WHILE MY FATHER REMAINED INCARCERATED FOR THE
22 MAJORITY OF MY FORMATIVE YEARS. FOR AN EXTENDED PERIOD
23 OF MY TIME, MY FAMILY CAME TOGETHER AND OVERCAME THIS
24 STATISTICAL REPRESENTATION OF ADVERSITY.

25 ALTHOUGH MY MOTHER HAD ME EVALUATED AS A

1 CHILD, SHE MADE THE DECISION TO DECLINE THE MEDICATION
2 DUE TO THE CONCERNS REGARDING THE SIDE EFFECTS
3 ASSOCIATED WITH MY PEDIATRICIAN'S RECOMMENDED
4 PRESCRIPTION.

5 INSTEAD, MY MOTHER, ALONGSIDE OF
6 SUPPORTIVE FAMILY MEMBERS, DILIGENTLY PROVIDED ME WITH
7 STRUCTURE ASSISTANCE AT HOME AND EMBRACED PERSONALIZED
8 TUTORING, TAILORED GUIDANCE AND STUDY HABITS THAT
9 ENABLED ME TO START AND TO CHART ALTERNATIVE PATHWAYS
10 TOWARDS ACADEMIC ACHIEVEMENT.

11 AT EACH STAGE OF MY EDUCATIONAL JOURNEY,
12 I HAVE RECEIVED ACCOMMODATIONS TO ADDRESS MY NEEDS. IN
13 ELEMENTARY SCHOOL, I WAS ENROLLED IN THE SAIL PROGRAM,
14 WHICH IS AN INDIVIDUALIZED PROGRAM FOR READING, WHERE
15 TEACHERS PROVIDED THIS INDIVIDUALIZED INSTRUCTION BY
16 SITTING ME SEPARATELY FROM MY PEERS AND ARRANGING THAT
17 IT WOULD BE SUBSTANTIALLY DIFFERENTIATED THROUGHOUT THIS
18 TRIAL.

19 DURING MY MIDDLE SCHOOL YEARS, I BEGAN
20 IMPLEMENTING TIME-MANAGEMENT STRATEGIES AND PROACTIVELY
21 ENGAGED IN ADVANCED STUDY TECHNIQUES.

22 MY HIGH SCHOOL. AND IN HIGH SCHOOL, I
23 CONSCIOUSLY REMOVED MYSELF FROM DISTRACTING
24 ENVIRONMENTS, UTILIZED ALARMS TO PROMPT COMPLETIONS OF
25 DAILY TASKS AND EVEN RESORTED TO PHOTOGRAPHING THE

1 PLACEMENT OF SOME OF MY BELONGINGS IN AN AIDE FOR ME TO
2 REMEMBER WHERE THINGS COULD BE.

3 AS A COLLEGE STUDENT, CERTAIN PROFESSORS
4 GRANTED ME THE OPPORTUNITY TO TAKE STANDARDIZED EXAMS
5 WITHIN THEIR OFFICE, FREE OF TIME CONSTRAINTS, AND
6 PERMITTED ME TO WEAR EAR PLUGS DURING TESTING ALONGSIDE
7 MY PEERS.

8 IT WAS NOT UNTIL MY COLLEGE YEARS THAT I
9 UNDERWENT A RE-EVALUATION LEADING TO A SUBSEQUENT
10 DIAGNOSIS OF ADHD. THIS DIAGNOSIS WAS REAFFIRMED ONCE
11 AGAIN DURING MY TIME AS A MEDICAL STUDENT. RECEIVING A
12 DIAGNOSIS OF ADHD TO ME FELT LIKE AN ILLUMINATING SIGN
13 WAS ABOVE MY HEAD BROADCASTING TO THE WORLD THAT
14 SOMETHING WAS INHERENTLY FLAWED ABOUT ME. IT SEEMED TO
15 IMPLY THAT BEING DISABLED EQUATED ME TO BEING
16 INTELLECTUALLY INFERIOR TO MY COUNTERPARTS AND THAT
17 WITHOUT ACCOMMODATIONS, MY ACHIEVEMENTS WOULD HAVE BEEN
18 UNATTAINABLE.

19 DESPITE BEING OFFERED OFFICIAL
20 ACCOMMODATIONS BY THE COLLEGE, I DECIDED TO TAKE THE
21 MEDICATION IN THE ATTEMPT TO MITIGATE THE CHALLENGES I
22 FACED WITHOUT THE SCRUTINY OF OTHER PROFESSORS AND OTHER
23 PEOPLE KNOWING ABOUT MY DISABILITY.

24 DURING MY TENURE AS A MEDICAL STUDENT, I
25 ENCOUNTERED SIGNIFICANT DIFFICULTIES. I EXPERIENCED

1 FAILING NEARLY EVERY EXAMINATION ON MY INITIAL ATTEMPTS.
2 BUT HOWEVER, THESE FAILURES WERE NOT INDICATIVE OF THE
3 LACK OF COMPREHENSION OR KNOWLEDGE. RATHER THEY STEM
4 FROM THE FERMENTABLE HURDLES PRESENTED BY MY DISABILITY
5 WITHIN THAT PARTICULAR ACADEMIC ENVIRONMENT.

6 NEVERTHELESS, AS I PERSEVERED THROUGH
7 SUBSEQUENT RETAKES ON THOSE PARTICULAR EXAMINATIONS, I
8 WAS NOT GRANTED ADDITIONAL TIME TO COMPLETE THOSE EXAMS
9 AND PROVIDED WITH THE CONDUCIVE DISTRACTION FREE SPACE.

10 AS I ATTESTED DURING MY DEPOSITION, BY
11 THE TIME I REGISTERED FOR THE CBSE, MY EDUCATIONAL
12 INSTITUTION, HAVING REVIEWED SIMILAR DOCUMENTATION
13 SHARED WITH THE NATIONAL BOARD OF MEDICAL EXAMINERS,
14 ACKNOWLEDGED THE NECESSITY FOR OFFICIAL ACCOMMODATIONS
15 AND DUALY PROVIDED ME THOSE ACCOMMODATIONS.

16 THE EVIDENCE PRESENTED THROUGHOUT THIS
17 TRIAL IS GOING TO ILLUMINATE THE DISHEARTENING REALITY
18 WITHIN THE AFRICAN AMERICAN DIASPORA WHEREIN AFRICAN
19 AMERICAN MEN IN PARTICULAR POSE AN INHERENT DISTRUST
20 TOWARDS THE AMERICAN MEDICAL SYSTEM. THIS DISTRUST
21 STEMS FROM A DEEPLY ENRICHED HISTORY OF NON CONSENSUAL
22 EXPERIMENTS CONDUCTED ON AFRICAN AMERICANS IN THE PAST.

23 ALTHOUGH MEASURES HAVE BEEN IMPLEMENTED
24 TO RECTIFY SUCH ADHEARSABLE AND REACTABLE ACTS FOR THE
25 GREATER GOOD. THE LINGERING THOUGHT IS ALWAYS PRESENT

1 IN THE BACK OF THOSE INDIVIDUAL'S HEADS.

2 FURTHERMORE, THE EVIDENCE WILL REVEAL
3 THAT THE NBME'S POLICIES REGARDING THE APPROVAL OF
4 ACCOMMODATIONS MAY APPEAR TO BE IMPARTIAL ON THE SURFACE
5 BUT, HOWEVER, UPON A CLOSER LOOK AT THE EXAMINATION, IT
6 BECOMES EVIDENT THAT THESE POLICIES INADVERTENTLY
7 PERPETUATED THESE DISCRIMINATIONS DUE TO FAILURE TO
8 INTEGRATE CULTURAL PERCEPTIONS. THE PRIMARY OBJECTIVE
9 OF THE ADA IS TO ELIMINATE DISCRIMINATION BASED ON
10 DISABILITIES.

11 ACCORDING TO THE ADA, AN INDIVIDUAL IS
12 CONSIDERED DISABLED IF THEY HAVE A MENTAL IMPAIRMENT
13 THAT SIGNIFICANTLY RESTRICTS A MAJOR LIFE ACTIVITY, AND
14 THEY SHOULD BE AFFORDED EQUAL OPPORTUNITY TO PARTICIPATE
15 ON PAR WITH THEIR NEUROTYPICAL COUNTERPARTS. THIS
16 DETRIMENTAL IMPACT CAUSED BY THE DECISIONS MADE BY THE
17 NBME IS NOT PERSPECTIVE, BUT RATHER CURRENT AND
18 ENDURING, AS THE EVIDENCE PRESENTED TODAY WILL
19 UNEQUIVOCALLY DEMONSTRATE.

20 AS THE EVIDENCE WILL ALSO SHOW, THE
21 MEDICAL DIAGNOSES OF ADHD AND ANXIETY ARE RECOGNIZED
22 IMPAIRMENTS UNDER THE ADA. AND THESE IMPAIRMENTS IMPOSE
23 SIGNIFICANT LIMITATIONS ON MY ABILITY TO ENGAGE IN MAJOR
24 LIFE ACTIVITIES.

25 ADDITIONALLY, IT WILL BECOME EVIDENT THAT

1 WITHOUT THE INTERVENTION OF THIS COURT, THE PERMANENT
2 NATURE OF THE EXAMINATION TRANSCRIPT WILL SUBJECT ME TO
3 PERPETUAL DISCRIMINATION BY NUMEROUS RESIDENCY
4 PROGRAMMING AND STATE LICENSING BOARDS THROUGHOUT THE
5 NATION.

6 AND IN FURTHER SUPPORT OF MY CLAIMS,
7 DURING THE COURSE OF THIS TRIAL, YOU WILL HEAR TESTIMONY
8 FROM MY MOTHER, MS. KING. SHE WILL PROVIDE A FIRSTHAND
9 ACCOUNT OF THE SUBSTANTIAL AMOUNT OF TIME I DEDICATED TO
10 STUDYING THROUGHOUT MY ACADEMIC JOURNEY, MY ADAPTEDNESS
11 TO HAVING THESE SELF-ACCOMMODATIONS, AND THE MARKED
12 DIFFERENCE I EXPERIENCED UPON RECEIVING ACCOMMODATIONS
13 AND PROPER MEDICATION MANAGEMENT AS WELL AS THE HARMS I
14 HAVE ALREADY ENDURED AND THE ENDURING HARM I WILL SUFFER
15 WITHOUT THE HELP OF THIS COURT.

16 THROUGHOUT THE COURSE OF THIS TRIAL, YOU
17 WILL ALSO HAVE OPPORTUNITIES TO HEAR TESTIMONY FROM
18 EXPERT WITNESSES WHO HAVE PROVIDED CRITICAL INSIGHT INTO
19 VARIOUS ASPECTS OF MY CASE. ONE, DR. CHRISTOPHER
20 PULLINS, AN ESTEEMED DEPARTMENT CHAIR OF FAMILY MEDICINE
21 AT THE MAYO CLINIC WILL TESTIFY REGARDING THE VALIDITY
22 OF MY DIAGNOSES, THE STANDARD OF CARE FOR MANAGING ADHD,
23 HIS PROFESSIONAL OPINION ON THE INFORMATION CONTAINED
24 WITHIN MY MEDICAL RECORDS, THE CULTURAL BIASES THAT ARE
25 PREVALENT WITHIN THE AFRICAN AMERICAN COMMUNITY

1 REGARDS MENTAL HEALTH TREATMENT, AND THE SUBSTANTIAL
2 HARMS I AM LIKELY TO ENDURE WITHOUT THE PROVISION AND
3 TEST ACCOMMODATIONS AND THE EXPUNGEMENT OF MY
4 EXAMINATION TRANSCRIPT MOVING FORWARD.

5 DR. JONATHAN SHEPHERD, A HIGHLY REGARDED
6 PSYCHIATRIST AT THE HOPE MEDICAL SYSTEMS, WILL SHARE HIS
7 EXPERTISE ON THE STANDARD OF CARE FOLLOWED BY
8 PSYCHIATRIST AND EVALUATIONS OF ADHD AND ANXIETY FOR THE
9 CRITERIA THAT WILL BE OUTLINED IN THE DSM5TR AND THE
10 CLINICAL ASSESSMENTS AS WELL.

11 AND FURTHERMORE, DR. JOANNE SENOGA, A
12 RECENTLY GRADUATED MEDICAL STUDENT WHO IS TO BE SET TO
13 COMMENCE HER RESIDENCY IN THE UPCOMING WEEKS, WILL
14 PROVIDE TESTIMONY REGARDING THE VIGOROUS MATCH PROGRAM.
15 AND I WOULD LIKE TO SAY THAT SHE IS NOT NECESSARILY A
16 GENERAL OR RECENTLY GRADUATED, BECAUSE SHE ACTUALLY
17 GRADUATED SEVERAL YEARS AGO. BUT SHE WAS RECENTLY
18 PROVIDED INTO -- ACCEPTED INTO A RESIDENCY PROGRAM AND
19 GOING THROUGH THE MATCH PROGRAM SEVERAL DIFFERENT TIMES,
20 AND -- WHICH MAKES HER A KEY FACT WITNESS FOR THIS
21 PARTICULAR CASE, AND HOW A FAILED ATTEMPT, EVEN ONE
22 FAILED ATTEMPT, ON THE -- ON MY APPLICATION AND MY
23 TRANSCRIPT CAN HINDER ME MOVING FORWARD.

24 THROUGHOUT THE COMBINED EXPERTISE OF
25 THESE WITNESSES, YOU WILL GAIN A COMPREHENSIVE

1 UNDERSTANDING OF THE MEDICAL AND CULTURAL DIMENSIONS OF
2 MY CASE, SHEDDING LIGHT ON THE POTENTIAL INJUSTICES I
3 FACED WITHOUT THE NECESSARY ACCOMMODATIONS AND THE
4 EXPUNGEMENT OF MY EXAM TRANSCRIPT. THE EVIDENCE
5 PRESENTED THROUGHOUT THIS LITIGATION WILL UNEQUIVOCALLY
6 DEMONSTRATE THAT THE NBME HAS FAILED IN THEIR DUTY TO
7 UPHOLD THEIR OBLIGATIONS TOWARDS ME AS A DISABLED
8 INDIVIDUAL. THE NBME HAS GAINED A WORLDWIDE RECOGNITION
9 FOR THEIR RECURRENT DENIAL OF ACCOMMODATIONS TO DISABLED
10 CANDIDATES, RELYING SOLELY ON RECOMMENDATIONS OF
11 INTERNAL ANALYSTS WHO ASSUMES THE ROLES OF JUDGE, JURY
12 AND EXECUTIONER WHEN EVALUATING APPLICATIONS.

13 DESPITE THE MULTITUDE OF SUPPORTING
14 EVIDENCE IN A LIFELONG TIME OF GETTING ACCOMMODATIONS, A
15 DECADES WORTH OF EVALUATIONS OF A PREFORMED DISABILITY,
16 AMONG SEVERAL DIFFERENT MEDICAL INSTITUTIONS AND
17 PHYSICIANS, AND INTENSIVE MEDICAL RECORD, A LETTER FROM
18 MY TREATING PHYSICIAN, AND DOCUMENTATION OF RECEIVING
19 OFFICIAL ACCOMMODATIONS ON OTHER HIGH STAKES
20 STANDARDIZED EXAMS, THE NBME CONSISTENTLY PORTRAYED ME
21 AS NOTHING BUT A SUBPAR STUDENT ATTEMPTING TO EXPLOIT MY
22 MEDICAL EDUCATION TO GAIN AN ADVANTAGE OF TESTING
23 ACCOMMODATIONS.

24 THEIR STANCE REMAINS UNWAVERING,
25 ASSERTING THAT THERE IS REALLY NO AMOUNT OF ADDITIONAL

1 DOCUMENTATION THAT I CAN PROVIDE EVEN IN THE FUTURE
2 THAT ALTER THEIR POSITION ON THIS CASE.

3 IN SUMMARY, MY CLAIMS FIND AMPLE SUPPORT
4 IN OFFICIAL MEDICAL DOCUMENTATION SUBMITTED WITH MY
5 APPLICATIONS AND PRESENTED BEFORE THIS HONORABLE COURT.
6 THE RECURRING AND WRONGFUL PATTERN OF CONDUCT
7 DEMONSTRATED BY THE NBME IN BREACHING THEIR OBLIGATIONS
8 IN ACCOMMODATING MY DISABILITY IS EVIDENT AND
9 UNDENIABLE.

10 YOUR HONOR, I RESPECTFULLY STAND BEFORE
11 YOU TODAY ON THIS MICROSOFT TEAMS PLATFORM AS NOT JUST A
12 PLAINTIFF SEEKING JUSTICE, BUT AS A RESOLUTE ADVOCATE
13 FOR PRINCIPALS OF FAIRNESS AND EQUALITY THAT UNDERPIN
14 OUR SOCIETY. I IMPORE YOU, JUDGE MURPHY, TO RECOGNIZE
15 THE PROFOUND IMPLICATIONS YOUR RULING WILL HAVE NOT ONLY
16 ON MY LIFE, BUT FOR THE COUNTLESS EXAMINEES WHO FACE
17 SIMILAR STRUGGLES IN THE FUTURE.

18 THROUGHOUT THIS TRIAL, THE EVIDENCE HAS
19 LAID BARE THE PERVASIVE HARM CAUSED BY DISCRIMINATION,
20 LEAVING SCARS ON THE VERY FABRIC OF OUR COLLECTIVE
21 ASPIRATIONS. IN THIS COURTROOM WHERE THE RULE OF LAW
22 REIGNS SUPREME, I PLACE MY FAITH IN THE POWER OF YOUR
23 DECISION TO BE A BASTIAN OF RIGHTEOUSNESS AND A BEACON
24 OF HOPE. THE AGONY ETCHED INTO MY SOLE THAT HAS
25 SHATTERED DREAMS AND HAS STIFLED MY ASPIRATIONS HAVE ALL

1 BEEN LAID BARE BEFORE YOU AND THIS COURT TO WITNESS.

2 IT IS IN MY UNWAVERING CONVICTION THAT
3 THIS SACRED PLACE, COURTROOM, CAN BECOME A SANCTUARY FOR
4 FAIRNESS WHERE NO PERSON IS CONDEMNED TO SUFFER THE
5 LIFELONG CONSEQUENCES OF DISCRIMINATION.

6 LASTLY, YOUR HONOR, I BESEECH YOU TO
7 RECOGNIZE THAT ALLOWING THE NBME TO PERSIST IN THEIR
8 DISCRIMINATORY PRACTICES WOULD INFLICT IRREPARABLE HARM
9 UPON ME AS A DISABLED MEDICAL GRADUATE. IT IS WITHIN
10 YOUR PURVIEW TO PREVENT THIS INJUSTICE FROM TAKING HOLD,
11 AND TO ENSURE THAT THE SPIRITS MOVING HERE IN THE
12 INHERENT WORTH OF EVERY INDIVIDUAL ARE UPHELD. WITH A
13 STROKE OF YOUR PEN, YOU HAVE THE POWER TO AFFIRM NOT
14 JUST ONE, BUT IRRESPECTIVE OF THEIR RACE, RELIGION AND
15 DISABILITY SHOULD EVER BE RELEGATED TO THE MARGINS OF
16 OUR SOCIETY. IN YOUR RULING, IT WILL RESONATE FAR
17 BEYOND THE CONFINES OF THIS COURTROOM, BEYOND A CATALYST
18 FOR AND BECOMING A CATALYST FOR THE COLLECTIVE AWAKING,
19 HEALING THE WOUNDS OF DISCRIMINATION AND PAVING THE WAY
20 FOR A FUTURE WHERE INCLUSIVITY KNOWS NO BOUNDS. YOUR
21 DECISION CARRIES THE POTENTIAL TO UPLIFT THE SPIRIT OF
22 HUMANITY, REINFORCING THE UNYIELDING PURSUIT OF
23 EQUALITY.

24 AND I EXPRESS A SINCERE GRATITUDE TO YOU,
25 YOUR HONOR, FOR YOUR ATTENTION AND CONSIDERATION, AND I

1 PRAY THAT YOUR WISDOM WILL GUIDE YOU IN RENDERING A
2 VERDICT THAT ALIGNS WITH THE PRINCIPLES OF JUST,
3 COMPASSION AND THE BELIEF IN THE INHERENT DIGNITY OF
4 EVERY INDIVIDUAL.

5 THANK YOU, YOUR HONOR.

6 THE COURT: THANK YOU, DR. KITCHENS.

7 MS. MEW, ARE YOU READY FOR YOUR OPENING?

8 MS. MEW: YES, THANK YOU, YOUR HONOR.

9 I AM GOING TO TAKE A SLIGHTLY DIFFERENT
10 APPROACH, SINCE THIS IS A BENCH TRIAL AND I HAVE A
11 RELATIVELY BRIEF OPENING STATEMENT.

12 IT WOULD CERTAINLY BE MUCH EASIER, AND
13 FAR LESS EXPENSIVE FOR NBME TO SIMPLY AGREE TO PROVIDE
14 DR. KITCHENS WITH EXTRA TESTING TIME. BUT AS THE SECOND
15 CIRCUIT RECOGNIZED IN POWELL VERSUS NBME, THE USMLE
16 EXAMS PLAY AN IMPORTANT ROLE IN INSURING THAT
17 PROSPECTIVE PHYSICIANS HAVE THE NECESSARY SKILLS TO MEET
18 APPLICABLE LICENSURE REQUIREMENTS. AND NBME HAS A DUTY
19 TO INSURE THAT THE EXAMINATIONS ARE FAIRLY ADMINISTERED
20 TO ALL EXAMINEES.

21 THE EVIDENCE WILL SHOW THAT NBME DOES
22 GRANT TESTING ACCOMODATIONS TO EXAMINEES WHO DEMONSTRATE
23 THEY HAVE A DISABILITY WITHIN THE MEANING OF THE ADA.
24 THOUSANDS OF EXAMINEES WITH DISABILITIES RECEIVE
25 ACCOMMODATIONS EVERY YEAR. AND JUST LAST, THE SAME YEAR

1 THAT DR. KITCHENS REQUESTED ACCOMMODATIONS FROM NBME ,
2 NBME APPROVED APPROXIMATELY 85 PERCENT OF THE
3 ACCOMMODATION REQUESTS IT RECEIVED IN WHOLE OR IN PART .
4 IT HAS AN ENTIRE SECTION OF ITS OPERATIONS THAT ARE
5 DEVOTED TO REVIEWING THESE REQUESTS AND THEN MAKING THE
6 NECESSARY ARRANGEMENTS TO ALLOW DISABLED EXAMINEES TO
7 HAVE THE ACCOMMODATIONS THEY NEED .

8 BUT GIVEN THE IMPORTANT DECISIONS THAT
9 ARE EFFECTED BY USMLE RESULTS NBME DOES GIVE DUE CARE IN
10 REVIEWING EACH ACCOMMODATION REQUEST . IT DOES SAY TO
11 INSURE THAT THE PROVISION OF ACCOMMODATIONS IS WARRANTED
12 AND TO PROTECT THE INTEGRITY OF TEST RESULTS AND THE
13 FAIRNESS OF THE PROCESS FOR ALL EXAMINEES .

14 DR. KITCHENS SUBMITTED TWO ACCOMMODATION
15 REQUESTS TO NBME , BOTH IN 2022 . THE FIRST SUBMITTED IN
16 JANUARY OF 2022 , SOUGHT 100 PERCENT OF EXTRA TIME OF THE
17 STEP 1 OF THE USMLE . THE SECOND , WHICH WAS SENT IN
18 AUGUST OF 2022 , SOUGHT 50 PERCENT EXTRA TIME AND EXTRA
19 BREAKS ON STEP 1 .

20 DR. KITCHENS RELIED ON THE SAME HANDFUL
21 OF DOCUMENTS TO SUPPORT EACH REQUEST . NONE OF WHICH
22 SUBSTANTIATED THE ADHD OR THE SO-CALLED TEST ANXIETY
23 DIAGNOSES HE CLAIMED ON HIS ACCOMODATION REQUEST FORM ,
24 NOR PROVIDED ANY INFORMATION DEMONSTRATING THAT HE IS
25 EXPERIENCING ANY FUNCTIONAL LIMITATIONS , MUCH LESS A

1 SUBSTANTIAL LIMITATION COMPARED TO MOST PEOPLE.

2 AND TO BE CLEAR, YOUR HONOR, THIS IS NOT
3 AN ISSUE ABOUT THE VOLUME OF DOCUMENTS SUBMITTED, IT'S A
4 ABOUT THE QUALITY OF INFORMATION THAT IS PROVIDED IN
5 THOSE DOCUMENTS. INDEED, THERE IS A WEALTH OF
6 INFORMATION THAT COULD HAVE SIMPLY BEEN PROVIDED IN DR.
7 KITCHENS'S PERSONAL STATEMENT. SOME OF THE SAME ISSUES
8 THAT HE HAS JUST OUTLAID IN HIS OPENING STATEMENT COULD
9 HAVE BEEN PUT IN HIS PERSONAL STATEMENT TO NBME. THOSE
10 WERE WHAT THE INSTRUCTIONS HAD ASKED HIM TO DO, TO TALK
11 ABOUT HIS SYMPTOMS, TO TALK ABOUT HIS FUNCTIONAL
12 IMPAIRMENTS. HE DID NOT DO SO.

13 AS FAR AS HIS MEDICAL RECORDS, HE DIDN'T
14 EVEN PROVIDE COMPLETE COPIES OF THE LIMITED RECORDS HE
15 SUBMITTED. INCLUDING, FOR EXAMPLE, PAGE NINE OF A 2020
16 DERMATOLOGY RECORD TO SUPPOSEDLY SUBSTANTIATE 2013
17 DIAGNOSIS OF ADHD.

18 DR. KITCHENS HAD MULTIPLE OPPORTUNITIES
19 TO PROVIDE MEANINGFUL INFORMATION TO NBME IN SUPPORT OF
20 HIS ACCOMMODATION REQUEST. NBME EMPLOYEES URGED HIM
21 MULTIPLE TIMES TO REVIEW THE INSTRUCTIONS AND THE
22 DOCUMENTATION GUIDELINES THAT WOULD HELP HIM TO SUBMIT
23 USEFUL DOCUMENTATION, BUT HE DECLINED TO SUBMIT THE TYPE
24 OF INFORMATION REQUESTED, INFORMATION THAT WOULD HAVE
25 BEEN HELPFUL, POTENTIALLY, TO HIS CASE. HE DID NOT EVEN

1 PREPARE, AGAIN, A DESCRIPTIVE PERSONAL STATEMENT.

2 DR. KITCHENS CANNOT SHOW THAT NBME
3 VIOLATED THE ADA WHEN IT DENIED HIS REQUEST FOR
4 ACCOMMODATIONS ON TWO ADMINISTRATIONS OF THE STEP 1 EXAM
5 IN 2022.

6 NOW, ONLY IN THIS LAWSUIT DR. KITCHENS IS
7 NOT RELYING ON THE SPARSE RECORD THAT HE ACTUALLY
8 SUBMITTED TO NBME IN SUPPORT OF HIS TWO ACCOMMODATION
9 REQUESTS, RATHER DURING THE COURSE OF THE LAWSUIT HE HAS
10 OBTAINED OR PERHAPS HE ALREADY HAD NUMEROUS DOCUMENTS,
11 INCLUDING MEDICAL RECORDS AND SCHOOL RECORDS THAT HE
12 NEVER PROVIDED TO NBME IN SUPPORT OF EITHER OF HIS
13 TESTING ACCOMMODATION REQUESTS.

14 HE'S ALSO OBTAINED FOR THE FIRST TIME A
15 PSYCHOLOGICAL EVALUATION THAT IS INTENDED TO ADDRESS
16 WHETHER HE HAS ADHD, OBTAINING A REPORT FROM MS. BACON
17 THAT WAS PREPARED IN 2023 AND ALSO NOT PROVIDED TO NBME
18 IN SUPPORT OF EITHER OF THE TESTING REQUESTS.

19 HE HAS PROVIDED FOR THE FIRST TIME A
20 PERSONAL STATEMENT IN HIS TESTIMONY TO THE COURT AND HIS
21 PRIOR COURT DECLARATION DISCUSSING HIS EDUCATIONAL
22 BACKGROUND AND WHAT HE PERCEIVES TO BE HIS SYSTEMS AND
23 IMPAIRMENTS. HE HAS PROVIDED INFORMATION FROM HIS
24 MOTHER WHO WILL BE TESTIFYING TODAY, INCLUDING AN
25 ASSERTION THAT ONLY CAME OUT DURING THE COURSE OF

1 LITIGATION THAT HE WAS EVALUATED FOR AND DIAGNOSED FOR
2 ADHD IN ELEMENTARY SCHOOL. ALTHOUGH, I WILL ADMIT, THAT
3 NO DOCUMENTATION HAS EVER BEEN PROVIDED TO SUPPORT THAT
4 ASSERTION.

5 DR. KITCHENS'S ABILITY TO OBTAIN AND
6 PROVIDE THESE AND OTHER RECORDS IN THESE EXPEDITED
7 LITIGATION PROCEEDINGS CONTRADICTS ANY ARGUMENT THAT HE
8 WAS UNABLE TO PROVIDE NBME WITH THIS TYPE OF INFORMATION
9 IN SUPPORT OF HIS ACTUAL TESTING ACCOMMODATION REQUEST
10 OR THAT IT WAS UNFAIR TO THINK THAT HE COULD DO SO.

11 INDEED, THIS IS PRECISELY THE TYPE OF
12 DOCUMENTATION AND INFORMATION THAT IS USEFUL IN
13 ASSESSING WHETHER SOMEONE HAS AN IMPAIRMENT AND WHETHER
14 THAT IMPAIRMENT SUBSTANTIALLY LIMITS THEM IN A MAJOR
15 LIFE ACTIVITY COMPARED TO MOST PEOPLE, SUCH THAT THE
16 PERSON NEEDS ACCOMMODATIONS IN ORDER TO ACCESS THE TEST.

17 UNFORTUNATELY, HOWEVER, IT TURNS OUT THAT
18 THIS NEW DOCUMENTATION STILL DOES NOT DEMONSTRATE THAT
19 DR. KITCHENS IS DISABLED WITHIN THE MEANING OF THE ADA.

20 DR. KITCHENS NOW HAS A DIAGNOSIS OF ADHD
21 IN HIS RECORDS, AND HE IS RECEIVING PRESCRIPTIONS
22 STIMULANT MEDICATION. HE HAS ALSO BEEN TREATED FOR
23 ANXIETY, AND MOST RECENTLY ARISING FROM SITUATIONAL
24 STRESSORS RESULTING FROM THIS LAWSUIT, BUT HIS MEDICAL
25 RECORDS STILL DO NOT SHOW THAT HE HAS FUNCTIONAL

1 LIMITATIONS THAT WOULD SUPPORT A FINDING, AGAIN, OF THE
2 KEY ISSUE THAT HE IS SUBSTANTIALLY LIMITED COMPARED TO
3 MOST PEOPLE IN ANY MAJOR LIFE ACTIVITY THAT IS RELEVANT
4 TO TAKING THE USMLE, OR THAT HE NEEDS 100 PERCENT EXTRA
5 TESTING TIME IN ORDER TO TAKE THE TEST IN A SUCCESSFUL
6 MANNER.

7 DR. KITCHENS HAS CHOSEN TO DEVELOP A
8 RECORD IN COURT, RATHER TO PRESENT INFORMATION TO NBME.
9 IN TERMS OF HIS REQUESTED RELIEF, ALTHOUGH WE THINK THAT
10 THE ISSUE IS VERY STRAIGHTFORWARD AS A LEGAL MATTER AND
11 THAT EXPUNGEMENT IS NOT AVAILABLE AS A REMEDY UNDER
12 TITLE III OF THE ADA. WE WILL NOT BE ENGAGING IN
13 ADDITIONAL LEGAL ARGUMENT FOR THE PURPOSES OF THIS
14 OPENING STATEMENT.

15 SUFFICE IT TO SAY THAT EVEN IF THIS
16 REMAINS AN OPEN QUESTION, IT IS READILY APPARENT THAT
17 EXPUNGEMENT IS NOT AN APPROPRIATE REMEDY IN THE FACTS OF
18 THIS CASE. AS DISCUSSED, DR. KITCHENS FAILED TO
19 ADEQUATELY SUPPORT HIS REQUEST FOR ACCOMMODATIONS ON THE
20 TWO ADMINISTRATIONS OF THE STEP 1 EXAM IN 2022. AND
21 NBME DID NOT VIOLATE THE ADA IN DENYING THESE REQUEST.
22 THEREFORE, HE IS NOT ENTITLED TO ANY RELIEF WITH RESPECT
23 TO THOSE TWO TEST ADMINISTRATIONS.

24 DR. KITCHENS ALSO CHOSE TO MOVE AHEAD AND
25 TEST UNDER STANDARD CONDITIONS AFTER HIS REQUESTS WERE

1 DENIED WITHOUT SEEKING PREVENTIVE RELIEF AT THAT TIME
2 BEFORE HE TESTED. AND HE NEVER SOUGHT ANY
3 ACCOMMODATIONS AT ALL ON THE THIRD ADMINISTRATION, THE
4 STEP 1 THAT HE TOOK OR ON TWO STEP -- 2CK EXAMINATIONS
5 THAT HE ALSO TOOK IN 2022. THEREFORE, IT'S ABUNDANTLY
6 APPARENT THAT EXPUNGEMENT WOULD NOT BE APPROPRIATE ON
7 THOSE TESTS WHERE HE DID NOT EVEN SEEK ACCOMMODATIONS.

8 NBME ACKNOWLEDGES THAT DR. KITCHENS FEELS
9 SIGNIFICANT PRESSURE HAVING ONLY ONE MORE ATTEMPT TO
10 PASS THE STEP 1 EXAM. THE RECORD, HOWEVER, DOES NOT
11 SUPPORT HIS CLAIM THAT HE IS DISABLED AND NEEDS
12 ACCOMMODATIONS TO ACCESS THE TEST. HE HAS FAILED TO
13 SHOW THAT HE IS ENTITLED TO ACCOMMODATIONS ON ANY FUTURE
14 ADMINISTRATION OF THE USMLE.

15 THANK YOU, YOUR HONOR.

16 THE COURT: THANK YOU, MS. MEW.

17 ALL RIGHT, SO NOW WE WILL BEGIN, DR.

18 KITCHENS, YOUR CASE IN CHIEF. SO IT IS YOUR OPPORTUNITY
19 TO PRESENT WITNESSES AND QUESTION THEM AND SO FORTH.

20 ARE YOU READY TO BEGIN?

21 DR. KITCHENS: YES, YOUR HONOR, I AM
22 READY TO BEGIN.

23 THE COURT: ALL RIGHT. YOU MAY CALL YOUR
24 FIRST WITNESS.

25 DR. KITCHENS: I WOULD LIKE TO CALL MY

1 FIRST WITNESS, DOCTOR CHRISTOPHER PULLINS.

2 THE COURT: LYNN, WOULD YOU PLEASE SWEAR
3 IN THE WITNESS?

4 THE COURT REPORTER: SURE.

5 CAN YOU PLEASE RAISE YOUR RIGHT HAND?

6 (PLAINTIFF WITNESS, CHRISTOPHER PULLINS,
7 IS SWORN.)

8 THE COURT REPORTER: CAN YOU PLEASE STATE
9 AND SPELL YOUR NAME FOR THE RECORD?

10 THE WITNESS: CHRISTOPHER,
11 C-H-R-I-S-T-O-P-H-E-R, PULLINS, P-U-L-L-I-N-S.

12 THE COURT: DR. KITCHENS, YOU MAY
13 PROCEED.

14 DR. KITCHENS: THANK YOU SO MUCH, YOUR
15 HONOR.

16 DIRECT EXAMINATION

17 BY DR. KITCHENS:

18 Q. GOOD MORNING, DR. PULLINS. HOW ARE YOU THIS
19 MORNING?

20 A. GOOD MORNING. I'M DOING WELL.

21 Q. GOOD. DR. PULLINS, AT ANY POINT GOING FORWARD,
22 IF THERE IS A QUESTION THAT I GIVE OR THAT I ASK YOU
23 THAT YOU MAY NEED A LITTLE BIT MORE CLARIFICATION ON,
24 PLEASE DO NOT HESITATE TO ASK ME TO CLARIFY, OKAY?

25 A. OKAY.

1 Q. SO DR. PULLINS, IS THERE ANY REASON THAT YOU
2 WILL BE ABLE TO TESTIFY ACCURATELY TO THE BEST OF YOUR
3 ABILITY THIS MORNING?

4 A. CAN YOU REPHRASE? I'M SORRY.

5 Q. YES.

6 IF FOR WHATEVER REASON I ASK A QUESTION
7 THAT YOU NEED ME TO CLARIFY OR IF THERE IS A REASON WHY
8 YOU ARE NOT ABLE TO GIVE AN ACCURATE DESCRIPTION OR
9 ACCURATE ANSWER, YOU MAY -- WOULD YOU AGREE TO
10 ACKNOWLEDGE THAT?

11 A. YES.

12 Q. OKAY. DR. PULLINS, DID I ASK YOU TO REVIEW ANY
13 MATERIAL RELATED TO THIS COURT CASE TODAY?

14 A. YES.

15 Q. DID YOU REVIEW THOSE MATERIALS?

16 A. I DID.

17 Q. SO ARE YOU PREPARED TODAY TO TELL US WHAT YOU
18 DID, HOW YOU DID IT AND WHAT CONCLUSIONS YOU REACHED?

19 A. YES.

20 Q. DR. PULLINS. ARE YOU BEING PAID FOR YOUR
21 TESTIMONY TODAY?

22 A. I AM NOT.

23 Q. HOW MANY TIMES HAVE YOU TESTIFIED IN COURT AS AN
24 EXPERT WITNESS?

25 A. THIS WILL BE MY FIRST TIME.

1 Q. OKAY. DR. PULLINS, HOW WELL WOULD YOU SAY THAT
2 YOU KNOW THE PLAINTIFF, MYSELF?

3 A. FAIRLY WELL. PROBABLY SINCE 2018, 2019.

4 Q. OKAY. YES.

5 MOVING ON HERE. SO ACCORDING TO YOUR
6 C.V., IT SAYS THAT YOU WORK AT MAYO CLINIC, IS THAT
7 CORRECT?

8 A. YES, THAT IS CORRECT.

9 Q. AND HOW LONG HAVE YOU WORKED THERE?

10 A. SINCE 2013.

11 Q. HOW LONG HAVE YOU HELD AN ACTIVE LICENSE TO
12 PRACTICE MEDICINE IN THE UNITED STATES OF AMERICA?

13 A. FOR 20 YEARS.

14 Q. FOR WHATEVER REASON, HAVE YOU EVER HAD YOUR
15 MEDICAL LICENSE REVOKED?

16 A. I HAVE NOT.

17 Q. HAVE YOU AUTHORIZED OR CO-AUTHORIZED ANY
18 AUTHORED ANY TYPES OF PEER REVIEW ARTICLES?

19 A. YES, I HAVE.

20 Q. CAN YOU TELL US A LITTLE BIT ABOUT WHAT TYPE OF
21 ARTICLES WERE THEY?

22 A. SO I DO A LOT OF RESEARCH SURROUNDING
23 PARTICULARLY AFRICAN AMERICAN COMMUNITY, TRYING TO WORK
24 WITH THE PARTICIPATION AND RETENTION OF AFRICAN
25 AMERICANS IN RESEARCH, AND ALSO DOING A LOT OF WORK WITH

1 COMMUNITY LITERACY, INCREASING THAT. SO THE JOURNALS
2 THAT I HAVE WORKED ON HAVE BEEN BASED OFF OF WORKING
3 WITH THOSE COMMUNITIES AND ACTUALLY LOOKING AT THE
4 PRE-IMPOSED IMPLEMENTATION OF DIFFERENT STRATEGIES TO
5 HELP INCREASE THOSE.

6 Q. OKAY. THANK YOU.

7 ARE YOU A MEMBER OF ANY OTHER TYPES OF
8 PROFESSIONAL MEDICAL ASSOCIATIONS?

9 A. I AM A MEMBER OF THE AMERICAN ACADEMY OF FAMILY
10 MEDICINE. AND THEN I AM BOARD CERTIFIED THROUGH ABFM AS
11 WELL.

12 Q. DR. PULLINS, CAN YOU TELL THE COURT TODAY SOME
13 OF YOUR -- WHAT YOUR DAILY DUTIES LOOK LIKE IN YOUR
14 CURRENT PLACE OF EMPLOYMENT?

15 A. YES. SO IN ADDITION TO PATIENT CARE, AS CHAIR
16 OF THE DEPARTMENT, I OVERSEE 35 CLINICIANS AND I AM
17 RESPONSIBLE FOR THE DAILY OPERATIONS UNDER THE SHIELDS
18 OF RESEARCH, EDUCATION AND PATIENT CARE.

19 Q. GOT YOU.

20 SO AM I HEARING THAT YOU OVERLOOK OTHER
21 PHYSICIANS AND THEIR POTENTIAL ADVICE AS THE CHAIR OF
22 THE DEPARTMENT AND GIVE ADVICE AS THE CHAIR OF THE
23 DEPARTMENT?

24 A. YES.

25 Q. DO YOU PROVIDE -- IN YOUR CAPACITY, DO YOU

1 PROVIDE ADHD EVALUATIONS AS PART OF YOUR DUTIES?

2 A. YES.

3 Q. SO IF A PATIENT NEEDED AN EVALUATION FOR ADHD,
4 HOW WOULD YOU GO ABOUT COMING UP WITH A TREATMENT PLAN
5 AND DIAGNOSING OF THIS PATIENT?

6 A. SO THE PATIENT COMES IN WITH CONCERNS ABOUT
7 INATTENTIVENESS, IMPULSIVITY, HYPERACTIVITY, THOSE KINDS
8 OF THINGS. FIRST WE OBVIOUSLY GET AN DETAILED HISTORY
9 ON GOING BACK SOMETIMES AS EARLY AS CHILDHOOD UP TO
10 PRESENT, DEPENDING ON THE AGE OF THE PATIENT. AND
11 FINDING OUT HOW IT EFFECTED THEIR QUALITY OF LIFE, HOW
12 IT EFFECTED NOT JUST AT SCHOOL, BUT EVEN AT HOME.

13 SO I TAKE A COMPREHENSIVE EVALUATION OF
14 WHAT IS GOING ON. HAVE THEY BEEN TREATED IN PAST, HAVE
15 THEY BEEN EVALUATED FOR THIS IN THE PAST, IS THERE
16 SOMETHING IN THE CHARTS CHARTING THAT WOULD ALSO HAVE
17 SOME EVIDENCE THAT THEY HAVE ALREADY DEALT WITH THIS IN
18 THE PAST.

19 DEPENDING ON THE SEVERITY, WE WOULD
20 DECIDE ON WHAT THE BEST TREATMENT PLAN, IF WE AGREE THAT
21 THAT IS WHAT THE PROPER DIAGNOSIS WAS.

22 Q. GOT YOU. UNDERSTOOD.

23 SO HOW IMPORTANT IS IT FOR YOU TO GET AN
24 ACCURATE TESTIMONY OR THE TESTIMONY OF YOUR PATIENT WHEN
25 DIAGNOSING THEM WITH ANY TYPES OF MENTAL HEALTH

1 DISPARITY?

2 MS. MEWS: YOUR HONOR, I WAS ON MUTE
3 BEFORE. I WANT TO LODGE AN OBJECTION. I AM NOT SURE IF
4 WE WERE STILL DOING VOIR DIRE. I AM NOT SURE HOW
5 DR. PULLINS IS BEING OFFERED.

6 IS HE BEING OFFERED AS AN EXPERT WITNESS?
7 AND IF SO, I WOULD LIKE TO HEAR WHAT THAT OFFER IS AND
8 HAVE A CHANCE TO RESPOND BEFORE HE CONTINUES WITH THIS.

9 THE COURT: SURE.

10 DR. KITCHENS.

11 DR. KITCHENS: YES, YOUR HONOR, I AM
12 ACTUALLY GETTING THERE.

13 THE COURT: OKAY. CONTINUE.

14 BY DR. KITCHENS:

15 Q. SO DR. PULLINS, HOW IMPORTANT IS IT TO GET
16 FIRSTHAND HISTORY TAKING FROM THE ACTUAL PATIENT ITSELF
17 WHEN THEY COME UP TO YOU?

18 MS. MEW: SORRY, DR. KITCHENS, I DIDN'T
19 MEAN TO TALK OVER YOU.

20 THE COURT: MS. MEW, GO AHEAD.

21 MS. MEW: YOUR HONOR, I AM GOING TO RENEW
22 MY OBJECTION. I DON'T THINK THAT THESE QUESTIONS GO TO
23 HIS QUALIFICATIONS OR THE UNDERSTANDING WHAT THE SCOPE
24 OF HIS TESTIMONY IS GOING TO BE. SO AGAIN, IF WE COULD
25 JUST ESTABLISH THAT SO THAT WE CAN MAKE OUR RECORD, I

1 WOULD --

2 THE COURT: DR. KITCHENS, ARE YOU
3 PLANNING ON MAKING AN OFFER OF DR. PULLINS AS AN EXPERT
4 IN A PARTICULAR FIELD?

5 DR. KITCHENS: YES, SIR. AS I WAS
6 ACTUALLY ABOUT TO SAY NEXT, IS YOUR HONOR, AT THIS TIME
7 I WOULD LOOK TO TENDER DR. CHRISTOPHER PULLINS AS AN
8 EXPERT IN FAMILY MEDICINE.

9 MS. MEW: YOUR HONOR, MAY I ASK --

10 THE COURT: MS. MEW, YOU MAY GO AHEAD.

11 CROSS-EXAMINATION

12 BY MS. MEW:

13 Q. GOOD MORNING, DR. PULLINS, MY NAME IS CAROLINE
14 MEW. I AM AN ATTORNEY FOR THE NATIONAL BOARD OF MEDICAL
15 EXAMINERS.

16 I UNDERSTAND THAT YOU ARE A FAMILY
17 MEDICINE PHYSICIAN?

18 A. THAT'S CORRECT.

19 Q. HAVE YOU WRITTEN ANY ARTICLES ON ADHD?

20 A. I HAVE NOT.

21 Q. IT'S MY UNDERSTANDING FROM PRIOR DISCLOSURES IN
22 THIS MATTER THAT IT IS YOUR PRACTICE WHEN SOMEONE COMES
23 TO YOU EXPLAINING THE SYMPTOMS OF ADHD THAT YOU REFER
24 THEM OUT FOR AN EVALUATION, IS THAT CORRECT?

25 A. IF THEY HAVE NOT HAD A PREVIOUS DIAGNOSIS AND

1 IT'S A NEW DIAGNOSIS, YES, I WILL GET THE CONSULTATION
2 FROM MY BEHAVIORAL HEALTH SPECIALISTS.

3 Q. BUT DO YOU ALSO DIAGNOSE CASES YOURSELF?

4 A. I HAVE. IT'S WITHIN THE PURVIEW OF ME TO DO
5 THAT, YES.

6 Q. HOW OFTEN DO YOU EVALUATE INDIVIDUALS FOR ADHD?

7 A. I CAN'T GIVE YOU A PARTICULAR NUMBER, BUT IN
8 20 YEARS OF PRACTICE, I HAVE DONE IT BEFORE.

9 Q. WITHIN THE PAST FIVE YEARS, HOW MANY INDIVIDUALS
10 HAVE YOU EVALUATED FOR ADHD?

11 A. I COULD NOT GIVE YOU A PARTICULAR NUMBER.

12 Q. WITHIN THE PAST YEAR. HOW MANY INDIVIDUALS HAVE
13 YOU EVALUATED FOR ADHD?

14 A. FIVE, LET'S SAY.

15 Q. DO YOU INTEND TO OFFER AN OPINION ON WHETHER DR.
16 KITCHENS HAS BEEN PROPERLY DIAGNOSED WITH ADHD?

17 A. I AM.

18 Q. DO YOU INTEND TO OFFER AN OPINION ON WHETHER HE
19 IS SUBSTANTIALLY LIMITED?

20 A. I AM.

21 Q. DO YOU INTEND TO OFFER TESTIMONY WITH RESPECT TO
22 WHETHER DR. KITCHENS WAS PROPERLY DIAGNOSED WITH
23 ANXIETY?

24 A. I AM.

25 Q. HOW MANY INDIVIDUALS HAVE YOU EVALUATED FOR

1 ANXIETY IN THE LAST YEAR?

2 A. MORE THAN 30.

3 Q. HAVE YOU WRITTEN ANY ARTICLES ON ANXIETY?

4 A. I HAVE NOT.

5 Q. ARE THERE ANY OTHER TOPICS THAT YOU ARE
6 ANTICIPATING TESTIFYING TO TODAY?

7 A. I AM NOT.

8 MS. MEW: YOUR HONOR, WE OBJECT TO DR.
9 PULLINS'S TESTIMONY UNDER RULES 701 AND 702, AND ALSO ON
10 THE BASIS THAT I THINK THAT THE SCOPE OF HIS TESTIMONY
11 IS DIFFERENT THAN WHAT WAS DISCLOSED TO US BOTH IN THE
12 INITIAL EXPERT WITNESS DISCLOSURES AND AS RECENTLY AS
13 THE JOINT PRETRIAL STATEMENT. I DON'T THINK IT WAS EVER
14 DISCLOSED THAT DR. PULLINS WAS ACTUALLY GOING TO BE
15 OFFERING AN OPINION ON DR. KITCHENS'S ACTUAL CASE.

16 BUT IN ANY EVENT, I DON'T THINK THAT HE
17 HAS THE QUALIFICATIONS AND FIT TO HIS TESTIMONY THAT
18 JUSTIFIES HIM SERVING AS AN A EXPERT WITNESS. AND TO
19 THE EXTENT THAT HE IS OFFERING -- I THINK WE WILL
20 WITHHOLD THE OBJECTION TO THE EXTENT THE TESTIMONY GOES
21 INTO ANY OTHER TOPICS.

22 THE COURT: OKAY. I AM OVERRULING THE
23 OBJECTIONS. THE TENDER IS ACCEPTED, AND DR. KITCHENS,
24 YOU CAN PROCEED WITH YOUR QUESTIONING.

25 DR. KITCHENS: THANK YOU, YOUR HONOR.

1 BY DR. KITCHENS:

2 Q. CONTINUING ON, DR. PULLINS, CAN YOU DESCRIBE FOR
3 THE COURT TODAY THE GENERAL PROCESS YOU WOULD TAKE WHEN
4 YOU ARE ASSESSING A PATIENT'S CHIEF COMPLAINT?

5 A. YES. SO THE CHIEF COMPLAINT IS NORMALLY
6 SOMETHING THAT WHEN A PATIENT CALLS IN FOR AN
7 APPOINTMENT OR DURING THE NURSING PROCESS, THEY HAVE
8 BROUGHT UP TO THE ATTENTION THE MAIN ISSUE OF WHY THEY
9 ARE COMING IN FOR AN OFFICE VISIT. AND THAT WILL DIRECT
10 THE -- WHAT TAKES PLACE DURING THAT PATIENT ENCOUNTER.

11 Q. GOT YOU.

12 AND THE QUESTION I WAS TRYING TO ASK YOU
13 EARLIER WAS HOW IMPORTANT IS THE PATIENT'S PERSONAL
14 INTAKE STATEMENT WHEN THEY ARE EXPLAINING TO YOU ABOUT
15 THEIR CHIEF COMPLAINT, HOW IMPORTANT IS IT?

16 A. WELL, IT'S IMPORTANT BECAUSE FROM A CLINICIAN'S
17 SIDE, IT ALREADY PUTS INTO MOTION THE PARTICULAR
18 QUESTIONS, THE DIFFERENTIAL DIAGNOSIS THAT YOU ARE GOING
19 TO GO INTO THE ROOM CONSIDERING BASED OFF OF THAT
20 STATEMENT.

21 Q. AND DR. PULLINS, AS A FAMILY MEDICINE PHYSICIAN,
22 DO YOU TEND TO TREAT CHILDREN MORE OR ADULTS MORE?

23 A. IN MY CURRENT PRACTICE WE PREDOMINANTLY TREAT
24 ADULTS. WE DO HAVE SOME ADOLESCENTS AND YOUNGER
25 CHILDREN, BUT FOR THE MAJORITY I WOULD SAY ADULTS.

1 Q. OKAY. AND ARE YOU FAMILIAR WITH THE DSM5TR?

2 A. YES, I AM FAMILIAR WITH THE DSM5TR.

3 Q. AND DO YOU TEND TO USE THE DSM5TR GENERALLY IN
4 YOUR DAILY PRACTICES AS A FAMILY MEDICINE PHYSICIAN?

5 A. SO ALTHOUGH I AM FAMILIAR WITH IT, IT'S A
6 REFERENCE BOOK, SO IT IS NOT SOMETHING THAT I UTILIZE ON
7 ANY DAILY BASIS.

8 Q. THANK YOU.

9 SO ARE PHYSICIANS, ESPECIALLY IN THE
10 FAMILY MEDICINE FIELD, ARE THEY TAUGHT TO KNOW HOW TO
11 ASSESS AND EVALUATE A PATIENT WHO IS ACTUALLY SEEKING
12 MEDICAL TREATMENT?

13 A. YES, THEY ARE.

14 Q. AND ARE THEY ALSO TAUGHT TO KNOW HOW TO ASSESS
15 PATIENTS WHO ARE SEEKING MENTAL HEALTH?

16 A. YES, THEY ARE.

17 Q. OKAY. SO ONE THING I WOULD SAY HERE THAT I
18 WOULD LIKE TO ASK, AND IT'S REALLY IMPORTANT HERE, DR.
19 PULLINS, FOR YOU TO REALLY GIVE AN INSIGHT TO THE COURT
20 HERE IS, ARE YOU TRAINED AND ARE PHYSICIANS TRAINED TO
21 KNOW AND TO BE ABLE TO DETERMINE WHETHER OR NOT A
22 PATIENT IS FAKING THE SYMPTOMS OF THEIR CHIEF COMPLAINT?

23 A. YES, THAT IS PART OF OUR TRAINING.

24 Q. AND HOW -- AND WHAT TOOLS DO YOU TYPICALLY USE
25 TO HELP YOU KNOW IF A PATIENT IS ACTUALLY FAKING, AND

1 THEY ARE PROBABLY DRUG SEEKING?

2 A. SO THERE ARE CERTAIN -- EVEN IN OUR PHYSICAL
3 EXAMS THAT THERE IS SOMETHING CALLED WADDELL SIGNS, AND
4 THEY ARE DIFFERENT TECHNIQUES THAT ARE USED WHEN A
5 PATIENT MAYBE COMPLAINING OF, FOR EXAMPLE, PAIN AND THE
6 PAIN IS OUT OF PROPORTION TO THEIR COMPLAINT. AND SO
7 THERE ARE CERTAIN TECHNIQUES THAT WE WILL USE FOR THAT.

8 AS FAR AS DRUG SEEKING, MOST STATES HAVE
9 A MEDICAL MONITORING SYSTEM THAT WE HAVE THE DATABASE
10 ACCESS TO, AND WE CAN LOOK AND SEE WHAT THE HISTORY OF A
11 PATIENT'S PRESCRIPTION WRITINGS HAVE BEEN. ALSO, IF A
12 PATIENT, IF THEY COME IN AND THEY ARE ASKING FOR A
13 PARTICULAR NAME OF A MEDICATION IN PARTICULAR AND THEY
14 ARE HESITANT TO TRY ANYTHING ELSE THAT IS OFFERED, THOSE
15 ARE ALL EXAMPLES.

16 Q. SO A PATIENT'S MEDICAL RECORDS OF THAT
17 PARTICULAR MEDICATION, IS IT -- ARE YOU SAYING THAT
18 THAT'S IMPORTANT?

19 A. YES, IT IS.

20 Q. AND CAN YOU GIVE A LITTLE BIT MORE INFORMATION
21 ON WHY IS THAT MEDICAL RECORD IMPORTANT?

22 A. WELL, FOR EXAMPLE, WHEN PATIENTS COME IN AND
23 FILL OUT THEIR PROBLEM LIST PRIOR TO A VISIT, SOMETIMES
24 THEY MAY NEGLECT TO PUT A DIAGNOSIS. AND BY LOOKING AT
25 A MEDICATION LIST, I CAN SEE AND GET AN IDEA WHAT THEY

1 HAVE BEEN TREATED FOR, AND I MAY ASK, FOR EXAMPLE, WHY
2 DO YOU HAVE THIS BETABLOCKER ON YOUR LIST? DO YOU HAVE
3 A HISTORY OF HIGH BLOOD PRESSURE, AND THEY MAY SAY,
4 YEAH, I DO. SO THE MEDICATION LIST IS PART OF THE
5 HISTORY AND INFORMATION GATHERING PROCESS.

6 Q. AND WITH THAT MEDICAL RECORD THAT YOU WOULD HAVE
7 RECEIVED FROM THEIR TREATING PHYSICIAN OR THAT THEY
8 WOULD HAVE BROUGHT TO YOU, ARE THERE REASONS FOR YOU TO
9 DOUBT THE VALIDITY OF THOSE OFFICIAL MEDICAL RECORDS?

10 MS. MEW: YOUR HONOR, I OBJECT TO THIS
11 AND TO THIS LINE OF QUESTIONING. AGAIN, I THINK WHAT
12 DR. KITCHENS IS ASKING DR. PULLINS IS ABOUT HIS PERSONAL
13 PRACTICES. I DON'T THINK THAT HE HAS LAID ANY
14 FOUNDATION THAT DR. PULLINS IS FAMILIAR WITH THE
15 PRACTICES OF ANY OTHER PHYSICIANS, BUT THAT THERE IS
16 ANYTHING ABOUT WHAT DR. PULLINS IS DOING IS THEREFORE
17 RELEVANT TO THIS CASE.

18 DR. KITCHENS: YOUR HONOR, THIS IS
19 INFORMATION THAT IS COMMON PRACTICE BETWEEN ALL
20 PHYSICIANS. AND THIS IS BUILDING THE FOUNDATION FOR
21 LATER QUESTIONING. AND IT'S ACTUALLY VERY RELEVANT TO
22 THIS CASE WHEN THERE IS THE QUESTIONING OF WHAT
23 DOCUMENTS WERE SUBMITTED FOR MY ACCOMMODATIONS.

24 MS. MEW: YOUR HONOR, I DON'T THINK THERE
25 HAS BEEN FEELING, AGAIN, THAT DR. PULLINS IS FAMILIAR

1 WITH THE PRACTICES OF ANY OTHER PHYSICIANS, OTHER THAN
2 HIMSELF. AND I THINK WE NEED THAT KIND OF A SHOWING IN
3 ORDER FOR THIS TESTIMONY TO BE BOTH EXPERT TESTIMONY OF
4 ANY TYPE AND ALSO TO HAVE ANY KIND OF BEARING ON THIS
5 CASE.

6 THE COURT: WELL, I DID HEAR, AT LEAST
7 ONE ANSWER, ABOUT OTHER DOCTORS WHO DR. PULLINS
8 SUPERVISES, I THINK, AND OTHER BACKGROUND ANSWERS --
9 OTHER ANSWER ABOUT HIS BACKGROUND.

10 THE OBJECTION IS NOTED. I'M GOING TO
11 OVERRULE IT NOW AND SEE WHERE THE QUESTION GOES.

12 BY DR. KITCHENS:

13 Q. DR. PULLINS, SO IF A PATIENT COMES TO YOU AND
14 THEY ARE SEEKING TREATMENT AND/OR THEY ARE SEEKING
15 MEDICATION, WOULD YOU AUTOMATICALLY -- HOW WOULD YOU
16 DETERMINE -- LET ME REPHRASE THAT.

17 ARE PATIENTS WHO ASK FOR MEDICATIONS
18 AUTOMATICALLY CONSIDERED DRUG SEEKING?

19 MS. MEW: SAME OBJECTION, YOUR HONOR, AND
20 ALSO --

21 THE COURT: OVERRULED.

22 BY DR. KITCHENS:

23 Q. DR. PULLINS?

24 A. NO.

25 Q. WHY IS THAT?

1 A. I THINK BEING ON MEDICATION IS A NORMAL PART OF
2 LIFE. AND SO I WOULD -- IF ANOTHER CLINICIAN HAD MADE
3 THE DIAGNOSIS AND HAD A PATIENT ON IT, AGAIN, I WOULD
4 REVIEW THE HISTORY, MAKE SURE THAT I ALSO AGREED THAT
5 THAT ASSESSMENT WAS CORRECT. BUT I WOULD NOT
6 NECESSARILY AUTOMATICALLY JUMP TO THE CONCLUSION THAT
7 THEY WERE DRUG SEEKING.

8 Q. THANK YOU, DR. PULLINS.

9 DR. KITCHENS: YOUR HONOR, I WOULD LIKE
10 TO HAVE AN EXHIBIT BROUGHT IN, EXHIBIT PX05 OF THE
11 DISABILITY SERVICES. AND WITH YOUR PERMISSION, I CAN
12 SHARE THE SCREEN?

13 THE COURT: YES, OF COURSE, GO AHEAD.

14 DR. KITCHENS: OKAY.

15 BY DR. KITCHENS:

16 Q. LET'S SEE HERE.

17 A. I CAN SEE THE EXHIBIT.

18 Q. PERFECT. I WAS NOT SURE IF YOU COULD OR NOT.

19 THE COURT: IT'S IMPORTANT THAT EVERYONE
20 ELSE CAN, INCLUDING THE WITNESS AND MS. MEW. CAN EVERY
21 SEE IT?

22 THE WITNESS: I CAN SEE IT.

23 THE COURT: OKAY. GO AHEAD, DR.

24 KITCHENS.

25 BY DR. KITCHENS:

1 Q. DO YOU SEE THIS DOCUMENT HERE ON THE SCREEN?

2 A. YES, I DO SEE IT.

3 Q. AND WHAT IS THE TITLE OF THIS DOCUMENT?

4 A. BERE A COLLEGE DISABILITY SERVICES PROGRESS
5 NOTE.

6 Q. DR. PULLINS, WHAT THIS DOCUMENT IS A DOCUMENT
7 THAT WAS FROM DISABILITY SERVICES FROM MS. CYNTHIA REED
8 AS YOU CAN SEE DOWN HERE AND RECOMMENDATION FOR AN
9 EVALUATION THAT WAS GIVEN TO HER. AND AS YOU CAN SEE
10 HERE BY SUE RAMONDO, WHICH WAS ALSO ANOTHER PRACTITIONER
11 WHO EVALUATED THE PLAINTIFF BY LOOKING --

12 MS. MEW: OBJECTION, YOUR HONOR, HE IS
13 TESTIFYING TO THE DOCUMENT.

14 THE COURT: JUST A REMINDER, DR.
15 KITCHENS, YOU WANT TO ASK THE WITNESS OPEN-ENDED
16 QUESTIONS.

17 DR. KITCHENS: YES, I'M SORRY, YOUR
18 HONOR.

19 BY DR. KITCHENS:

20 Q. DR. PULLINS, CAN YOU READ THIS NOTE, PLEASE?

21 A. YES, IT'S IN REFERENCE TO MARKCUS KITCHENS DATED
22 JANUARY 10TH OF 2013. IT STATES THE FOLLOWING:
23 MARKCUS REFERRED TO ME BY SUE RAMONDO, PH.D. AFTER
24 REPORTING TO HER THAT HE FEELS HE HAS SYMPTOMS OF
25 ADD/ADHD. SPENT SOME TIME IN DIAGNOSTIC INTERVIEW AND

1 LEARNED THAT HE REPORTS HE HAD SYMPTOMS DATING BACK TO
2 FIRST GRADE, AT WHICH TIME IT WAS SUGGESTED THAT HE BE
3 RETAINED. HE REPORTS HIS MOM REFUSED THIS, BECAME
4 HYPERVIGILANT, AND BY HIS DESCRIPTION MICROMANAGED HIM
5 IN A POSITIVE WAY WITH STRUCTURE, PREDICTABILITY AND
6 HIGH INVOLVEMENT WITH HER AND WITH HER CURRICULAR
7 ACTIVITIES.

8 HE REPORTS THIS WENT WELL, AND HE HAD NO
9 PROBLEMS WITH FUNCTIONING UP UNTIL RECENTLY. HE REPORTS
10 HE IS NOW ON ACADEMIC PROBATION, BUT OVER THE PAST FEW
11 SEMESTERS HAS GOTTEN ONE F, ONE D AND B'S AND C'S ARE
12 NOW THE RULE, NOT A'S AND B'S.

13 AT THIS POINT IN THE DISCUSSION HE
14 REVEALED THAT HIS WISH IS NOT FOR ACCOMMODATIONS BUT FOR
15 MEDICATION. I REFERRED HIM TO STAFF MB AT THIS POINT,
16 EXPLAINED TO HIM MY ROLE, AND ASKED HIM TO RETURN AT HIS
17 REQUEST FOR MEDICATION. FROM STAFF MD DID NOT
18 SUCCESSFULLY RESOLVE HIS CONCERNS, SO THAT I CAN DO
19 FURTHER ASSESSMENT AT THAT TIME.

20 Q. THANK YOU, DR. PULLINS.

21 IN READING THIS EXHIBIT THAT I HAVE
22 PULLED UP HERE, WOULD YOU CONSIDER THIS FILE OR THIS
23 MEDICAL DOCUMENT TO BE ABNORMAL?

24 MS. MEW: OBJECTION, YOUR HONOR.

25 THE COURT: OVERRULED.

1 BY DR. KITCHENS:

2 Q. AND DR. PULLINS, WHY WOULD YOU SAY THAT THIS
3 DOCUMENT IS NOT ABNORMAL?

4 A. IT DESCRIBES -- GIVES HISTORY WHICH SETS THE
5 BACKGROUND OF WHY YOU WERE COMING TO THEIR OFFICE. IT
6 ALSO TALKED -- GIVES THE WHOLE HISTORICAL BACKGROUND OF
7 HOW THIS ACTUALLY MANIFESTS ITSELF AS FAR AS THE
8 ACADEMIC PERFORMANCE AND ALSO JUST TALKS ABOUT WHAT THE
9 WISH OF THE PATIENT ACTUALLY WAS IN REGARDS TO THE TYPE
10 OF TREATMENT THEY WERE INTERESTED IN.

11 Q. WOULD YOU CONSIDER THIS PATIENT OR AS WE CAN SEE
12 THE NAME HERE, MARKCUS KITCHENS, TO BE DRUG SEEKING FROM
13 WHAT YOU READ ON HERE ON THE SCREEN?

14 A. I DO NOT.

15 DR. KITCHENS: YOUR HONOR, THANK YOU.

16 I'M GOING TO --

17 THE COURT: DR. KITCHENS, WOULD YOU MIND
18 IF I INTERPOSED A QUESTION AS A FOLLOW UP?

19 DR. KITCHENS: YES, SIR.

20 THE COURT: MY QUESTION IS JUST FOR DR.
21 PULLINS, I THINK YOU ANSWERED THE LAST QUESTION "NO."
22 MY QUESTION IS, WHY, COULD YOU EXPLAIN YOUR ANSWER?

23 THE WITNESS: YES, SO I REVIEW RECORDS ON
24 A DAILY BASIS, SO THERE IS NOTHING ABNORMAL ABOUT THE
25 CONTENT OF THIS PARTICULAR DOCUMENT THAT I SEE IN FRONT

1 OF ME. IT'S WHAT I NORMALLY SEE ON MY DAILY BASIS.

2 THE COURT: THANK YOU.

3 DR. KITCHENS: YOUR HONOR, I WOULD LIKE
4 TO ENTER THIS EXHIBIT, EXHIBIT 2 INTO THE RECORD.

5 MS. MEWS: JUST A PROCEDURAL QUESTION.

6 COULD WE JUST KEEP THE EXISTING EXHIBIT
7 NUMBERS AS OPPOSED TO RENUMBERING TRIAL EXHIBITS? THAT
8 WAY THEY WOULD BE LABELED AND THE RECORD WOULD BE MORE
9 CLEARER.

10 THE COURT: I ABSOLUTELY AGREE.

11 DR. KITCHENS: OKAY. SORRY, ABOUT THAT.

12 THE COURT: BUT MS. MEW, DO YOU HAVE ANY
13 OBJECTION TO PX5 BEING ADMITTED?

14 MS. MEW: NO, YOUR HONOR.

15 THE COURT: IT WILL BE ADMITTED.

16 (PLAINTIFF EXHIBIT 5 IS ADMITTED INTO
17 EVIDENCE.)

18 BY DR. KITCHENS:

19 Q. DR. PULLINS, HOW DO YOU DETERMINE HOW MANY
20 MEDICATION TO PRESCRIBE TO A NEW PATIENT OR TO ONE OF
21 YOUR PATIENTS WITH A NEW DIAGNOSIS OF ADHD?

22 A. SO IT WOULD DEPEND ON THE AGE OF THE PATIENT, IT
23 MAY DEPEND ON THE BODY WEIGHT OF THE PATIENT, THEIR
24 HISTORY OF DRUG ALLERGIES, THOSE ARE ALL THINGS THAT I
25 WOULD TAKE INTO CONSIDERATION. IT'S COMMON PRACTICE

1 USED FOR MOST MEDICATIONS TO START AT THE LOWEST DOSE
2 AND THEN ADVANCE AS TOLERATED.

3 Q. GOT YOU. UNDERSTOOD.

4 SO DR. PULLINS -- ONE SECOND. I'M
5 PULLING UP THE EXHIBIT HERE, ONE SECOND. LET'S SEE, IT
6 SHOULD BE -- YES, ONE SECOND. HERE WE ARE.

7 SO DR. PULLINS, CAN YOU SEE HERE ON THE
8 SCREEN THIS DOCUMENT HERE?

9 A. YES, I CAN.

10 Q. DO YOU SEE -- CAN YOU DESCRIBE WHAT YOU ARE
11 SEEING HERE ON THE SCREEN, WHAT TYPE OF DOCUMENT THIS IS
12 OR THE NAME OF THE DOCUMENT?

13 THE COURT: DR. KITCHENS, BEFORE THE
14 WITNESS ANSWERS, CAN YOU IDENTIFY THE DOCUMENT BY ITS
15 NUMBER?

16 DR. KITCHENS: YES, SIR, I'M SORRY. THIS
17 IS PX02.

18 THE COURT: THANK YOU. SORRY TO
19 INTERRUPT. GO AHEAD.

20 MS. MEW: ACTUALLY WHILE WE ARE
21 INTERRUPTED TOO, YOUR HONOR, COULD WE PAGE THROUGH THE
22 ENTIRE EXHIBIT?

23 THE COURT: THAT'S A GOOD IDEA.

24 DR. KITCHENS, COULD YOU FLIP US THROUGH
25 THE EXHIBIT?

1 DR. KITCHENS: YES, SIR. I CAN DO THAT.

2 IS THAT ALL RIGHT WITH YOU, YOUR HONOR?

3 THE COURT: IT WAS.

4 DR. KITCHENS: I'M SORRY, MS. MEW.

5 THE COURT: WE ARE JUST IDENTIFYING THE

6 DOCUMENT. I DON'T KNOW, MS. MEW, IF YOU HAVE A QUESTION

7 ABOUT THAT?

8 MS. MEW: NO, NOT YET, YOUR HONOR.

9 THE COURT: OKAY. SORRY, PROCEED, DR.

10 KITCHENS.

11 BY DR. KITCHENS:

12 Q. OKAY. SO DR. PULLINS, YOU RECENTLY MENTIONED

13 THAT -- YOU RECENTLY MENTIONED THAT YOU WOULD START AT A

14 LOWER DOSAGE FOR YOUR PATIENTS AND THEN YOU WOULD ASSESS

15 THEM AND THEN INCREASE AS YOU GO. IS THAT A CORRECT

16 REPRESENTATION OF WHAT YOU JUST STATED?

17 A. THAT'S CORRECT.

18 Q. AND DR. PULLINS, DO YOU SEE HERE THIS PARTICULAR

19 DRUG HERE, THIS MEDICATION?

20 A. I DO.

21 Q. AND DR. PULLINS, CAN YOU SAY -- CAN YOU CONFIRM

22 WHERE THIS MEDICATION IS LOCATED ON THIS PARTICULAR

23 MEDICAL RECORD?

24 A. UNDER CURRENT OUTPATIENT MEDICATIONS.

25 Q. AND WOULD YOU -- WHAT WOULD YOU SAY IN YOUR

1 EXPERIENCE OF THE DOSAGE OF 15 MILLIGRAMS TWICE A DAY,
2 WOULD YOU CONSIDER THAT IN THE RANGE OF SMALL, MEDIUM,
3 LARGE AMOUNT OF A MEDICATION FOR THIS PARTICULAR
4 MEDICATION?

5 A. AT A TOTAL OF 30 MILLIGRAMS IN A 24-HOUR PERIOD,
6 I WOULD RATE THAT ON THE HIGHER END FOR THE RANGE, THE
7 MAXIMUM RANGE ON THAT MEDICATION.

8 Q. AND DR. PULLINS, CAN YOU EXPLAIN WHAT THIS
9 MEDICATION IS NORMALLY USED FOR?

10 A. YES, SO DEXTROAMPHETAMINE-AMPHETAMINE IS A
11 NEUROSTIMULANT THAT IS PRIMARILY USED FOR THE TREATMENT
12 OF ADHD AND ADA.

13 Q. SO IF A PERSON HAS A, AS YOU JUST STATED,
14 30 MILLIGRAMS OF THIS PARTICULAR MEDICATION USED FOR THE
15 TREATMENT OF ADHD, HOW WOULD YOU RATE THE SEVERITY OF
16 THE DIAGNOSES OF THAT PARTICULAR -- OF ADHD THAT IT'S
17 USED FOR?

18 A. I WOULD RATE IT ANYWHERE BETWEEN MODERATE AND
19 SEVERE.

20 Q. OKAY. THANK YOU.

21 FOR THE RECORD, I WOULD LIKE TO ADMIT
22 THIS RECORD INTO THE RECORD, THIS DOCUMENT -- EXHIBIT
23 INTO THE RECORD WHICH IS PX02.

24 MS. MEW: YOUR HONOR, I DON'T HAVE ANY
25 OBJECTION TO THE ADMISSIBILITY, BUT IT WOULD BE GOOD TO

1 JUST ESTABLISH WHAT THE RECORD IS.

2 THE COURT: WELL, ONE THING I WAS GOING
3 TO ADD IF NOBODY ELSE DID IS THE TESTIMONY THAT WE JUST
4 HEARD WAS IN REGARD TO WHAT I BELIEVE IS PAGE 9 OF PX02.

5 ARE WE ALL AGREED THAT WAS PAGE 9 WE WERE
6 LOOKING AT?

7 MS. MEW: YES, YOUR HONOR.

8 DR. KITCHENS: YES.

9 THE COURT: THAT'S ONE THING I WANTED TO
10 MAKE SURE.

11 NOW, I UNDERSTAND DR. KITCHENS IS MOVING
12 FOR THE ADMITTANCE OF PX02, THE ENTIRE DOCUMENT.

13 MS. MEW, DO YOU HAVE ANY OBJECTION?

14 MS. MEW: NO, YOUR HONOR, THAT'S FINE.

15 THE COURT: ALL RIGHT. IT WILL BE

16 ADMITTED.

17 (PLAINTIFF EXHIBIT 02 IS ADMITTED INTO
18 EVIDENCE.)

19 BY DR. KITCHENS:

20 Q. SO DR. PULLINS, AFTER REVIEWING ALL OF THE
21 RELEVANT DOCUMENTATION THAT WAS SUBMITTED WITH MY
22 REQUEST TO THE NBME, WOULD YOU -- SORRY, THE COMPUTER IS
23 GLITCHING HERE. I'M NOT SURE WHAT -- YES.

24 THE COURT: WE CAN STILL HEAR YOU, DR.
25 KITCHENS.

1 DR. KITCHENS: OKAY, FINE.

2 BY DR. KITCHENS:

3 Q. SO AFTER REVIEWING THE DOCUMENTS THAT WERE GIVEN
4 TO YOU WHEN SUBMITTED FOR THE NBME FOR REASONABLE
5 ACCOMMODATIONS, WHAT DID YOU CONCLUDE WERE THE ACTIVE
6 DIAGNOSES OF DR. KITCHENS, OF MYSELF?

7 MS. MEW: OBJECTION, YOUR HONOR. THERE
8 IS NO FOUNDATION. I DON'T KNOW WHAT DOCUMENTATION HE IS
9 REFERRING TO.

10 THE COURT: I ACTUALLY -- I WAS ABOUT TO
11 ASK THE SAME QUESTION.

12 DR. KITCHENS, IF YOU ARE GOING TO ASK A
13 QUESTION ON DOCUMENTATION, IT'S IMPORTANT FOR THE RECORD
14 IF ANY NO OTHER REASON TO BE SPECIFIC.

15 DR. KITCHENS: YES, SIR.

16 THE COURT: AGAIN, IF, FOR EXAMPLE, IT'S
17 ONE OF THE EXHIBITS WE JUST DID OR A DIFFERENT EXHIBIT,
18 YOU SHOULD REFER TO THAT.

19 DR. KITCHENS: OKAY, WILL DO.

20 BY DR. KITCHENS:

21 Q. DR. PULLINS, FOR INSTANCE, THE DOCUMENT THAT WE
22 JUST REVIEWED WITH THE TWO MEDICATIONS THAT WERE LISTED
23 THERE. AND AFTER REVIEWING THAT -- THOSE PARTICULAR
24 DOCUMENTS, WHAT WOULD YOU HAVE CONCLUDED AS TO THOSE
25 DIAGNOSES?

1 A. SO BASED ON THE MEDICATION, THE
2 DEXTROAMPHETAMINE-AMPHETAMINE AND THE BUSPIRONE, THOSE
3 ARE BOTH USED PURPOSELY FOR A CERTAIN CONDITION. AND SO
4 AGAIN AS I SAID BEFORE, THE
5 DEXTROAMPHETAMINE-AMPHETAMINE ON THE LIST WOULD LEAD ME
6 TO BELIEVE THAT THE PATIENT WAS BEING TREATED FOR ADD OR
7 ADHD. AND BUSPIRONE IS A MEDICATION COMMONLY USED FOR
8 ANXIETY. SO I WOULD COME TO THE CONCLUSION THAT EITHER
9 A GENERALIZED ANXIETY DISORDER PLUS ADHD WOULD BE THE
10 CONCLUSION I CAME TO IN REVIEWING THE DOCUMENT.

11 Q. THANK YOU, DR. PULLINS.

12 AS A FAMILY MEDICINE PRACTITIONER, CAN
13 YOU DIAGNOSE THESE PATIENTS, AS WE HAVE SAID EARLIER --
14 I'M SORRY, AS YOU STATED EARLIER THAT YOU CAN DIAGNOSE
15 PATIENTS WITH ADHD.

16 ARE THERE CERTAIN TOOLS THAT YOU MIGHT
17 USE TO HELP WITH YOUR DIAGNOSES?

18 A. YES. THERE ARE SEVERAL TOOLS. I THINK EACH
19 MEDICAL FACILITIES MAY USE DIFFERENT ONES, BUT THESE ARE
20 ALL VALIDATED TOOLS, AND THAT'S THE KEY. WHEN YOU ARE
21 USING A TOOL TO DIAGNOSE ANYTHING, YOU WANT TO MAKE SURE
22 IT'S A VALIDATED TOOL.

23 SO, FOR EXAMPLE, THE CONNERS RATING
24 SYSTEM IS ONE THAT WE USE. THERE IS ALSO AN ADULT
25 SELF-REPORTING SCALE THAT ARE USED. AND THOSE CAN BE

1 GIVEN NOT ONLY TO THE PATIENT, BUT YOU CAN ALSO GIVE IT
2 TO SOMEONE ELSE WHO HAS A GOOD KNOWLEDGE OF AN
3 INDIVIDUAL. SO WHETHER IT'S A TEACHER, WHETHER IT'S AN
4 EMPLOYER, THEY CAN USE IT IN DIFFERENT SITUATIONS. AND
5 SO THAT'S WHAT WE USE, IT HELPS US GIVE A BETTER
6 LIKELIHOOD WHAT THE DIAGNOSIS IS.

7 Q. OKAY. AND DR. PULLINS, CAN YOU IDENTIFY THIS
8 PARTICULAR DOCUMENT HERE?

9 A. YES. THIS IS A CONNERS SCALE REPORT HERE.

10 Q. WHO IS THE PATIENT?

11 A. MARKCUS KITCHENS.

12 Q. YES.

13 AND BY DOING THIS, WHEN YOU -- YOU SAID
14 EARLIER THAT YOU DIAGNOSE PATIENTS WITH ADHD AND TIMES
15 YOU WOULD SEND THEM OUT FOR AN EVALUATION. AND BY DOING
16 SO, THIS PARTICULAR TOOL HERE YOU WOULD USE -- WHAT IS
17 THIS TOOL ACTUALLY USED FOR ITSELF?

18 A. YES. SO WHEN WE LOOK AT ADD VERSUS ADHD, THIS
19 HELPS US DECIDE IS THE PATIENT ONLY SUFFERING FROM
20 INATTENTIVENESS OR DO THEY ALSO HAVE HYPERACTIVITY. SO
21 THIS FORM HELPS TO DECIDE ON IS IT BOTH OR JUST ONE OR
22 THE OTHER. AND SO THAT'S WHAT WE USE THIS FOR. THE
23 HIGHER THE NUMBER IS IT USUALLY HAS A MORE PROFOUND
24 IMPACT ON THE QUALITY OF LIFE AND THEIR ABILITY TO
25 FUNCTION NORMALLY. AND SO WE TAKE THAT INFORMATION AND

1 WE CAN DECIDE ON WHETHER THIS IS SOMETHING THAT WE NEED
2 TO CONSIDER JUST A NONMEDICATION APPROACH OR A
3 COMBINATION APPROACH.

4 Q. OKAY.

5 THE COURT: DR. KITCHENS, FOR THE SAKE OF
6 THE RECORD, I WOULD JUST -- CAN WE ALL AGREE FOR
7 IDENTIFICATION THAT WHAT WE ARE LOOKING AT IS IDENTIFIED
8 AS PX26?

9 MS. MEW: YES.

10 DR. KITCHENS: YES.

11 THE COURT: IT'S HELPFUL WHEN YOU BRING
12 UP AN EXHIBIT, BECAUSE THE VIDEO OF COURSE IS NOT
13 RECORDED. SO DR. KITCHENS WHEN YOU BRING UP A NEW
14 EXHIBIT, ALWAYS TRY TO SAY VERBALLY FOR IDENTIFICATION
15 PURPOSES THIS EXHIBIT NUMBER.

16 DR. KITCHENS: WILL DO.

17 THE COURT: THANK YOU.

18 DR. KITCHENS: YES, YOUR HONOR.

19 BY DR. KITCHENS:

20 Q. DR. PULLINS, CAN YOU READ THE LAST LINE
21 INDICATED HERE ON THIS DOCUMENT?

22 A. YES. INATTENTIVENESS, STRONG INDICATION,
23 SUSTAINED ATTENTION, SOME INDICATION, VIGILANCE, SOME
24 INDICATION.

25 Q. OKAY. THANK YOU.

1 DR. KITCHENS: I WOULD LIKE TO PUT INTO
2 THE RECORD EXHIBIT PX26, PAGE -- THE ENTIRE DOCUMENT.

3 MS. MEW: NO OBJECTION.

4 THE COURT: IT WILL BE ADMITTED.

5 (PLAINTIFF EXHIBIT 26 IS ADMITTED INTO
6 EVIDENCE.)

7 DR. KITCHENS: OKAY. THANK YOU.

8 BY DR. KITCHENS:

9 Q. I AM TRYING TO STOP SHARING THE SCREEN HERE.

10 SO, MOVING ON, DR. PULLINS, SO WITH ADHD,
11 WOULD IT BE -- IS ADHD CURABLE?

12 A. IT IS NOT CURABLE.

13 Q. BUT IS IT MANAGEABLE?

14 A. YES, IT'S MANAGEABLE. IT'S TREATABLE, YES.

15 Q. SO BY THIS PARTICULAR MEDICATION -- OR I'M
16 SORRY, WITH THE DIAGNOSES OF ADHD, AS A FAMILY MEDICINE
17 PHYSICIAN, HOW DO YOU DETERMINE WHETHER OR NOT THE
18 TREATMENT PLAN THAT YOU HAVE GIVEN FOR THEM -- SO LET ME
19 REPHRASE THAT.

20 HOW DO DETERMINE THE TREATMENT PLAN FOR
21 THAT PARTICULAR PATIENT?

22 A. SO IF THIS IS A NEW START THAT WE ARE REFERRING
23 TO, NORMALLY WHAT WE WILL DO IN OUR PRACTICE IS ACTUALLY
24 AGAIN GET OUR BEHAVIORAL SPECIALIST INVOLVED TO CONFIRM
25 THE SUSPICION. AND IF THEY DO, THEN WE GO AHEAD AND

1 PRESCRIBE MEDICATION, IF THAT'S INDICATING.

2 Q. GOT YOU. OKAY. THANK YOU.

3 JUST MOVING ON HERE. AND DR. PULLINS, I
4 WOULD LIKE TO ASK YOU, IF A PATIENT HAS A LONG FORMAL
5 HISTORY OF A CERTAIN PRESCRIPTION FOR A PARTICULAR DRUG
6 SUCH AS ADDERALL, WOULD YOU FEEL COMFORTABLE TO CONTINUE
7 TO PRESCRIBE THAT MEDICATION IF IT'S DEEMED BENEFICIAL
8 FOR THE PATIENT?

9 A. YES. SO THIS IS DIFFERENT THAN WHEN I WAS
10 SPEAKING ABOUT THE NEW START. SO FOR A PATIENT COMING
11 IN, THEY HAVE ALREADY SHOWN A HISTORY, AND AGAIN, WE
12 ALWAYS HAVE A DATABASES TO SEE WHAT THE RECORD WAS THAT
13 SHOWED WHETHER THEY WERE ON THE MEDICATION BEFORE. BUT
14 ALSO WE WOULD ASK FOR PREVIOUS RECORDS FROM THE PREVIOUS
15 PROVIDER TO ALSO DOCUMENT THAT.

16 AND IF THAT WAS SHOWN THAT THAT'S THE
17 DOSE THEY HAVE BEEN ON, THEY HAVE BEEN STABLE, IN THAT
18 SITUATION, YES, I WOULD REFILL IT.

19 Q. OKAY. I WOULD LIKE TO BRING IN -- I WOULD LIKE
20 TO BRING IN EXHIBIT NUMBER PX3 INTO THE -- I'M GOING TO
21 SHOW THAT NOW. LET ME SHARE MY SCREEN.

22 AND NOW, DR. PULLINS -- SORRY, I AM GOING
23 TO SCROLL THROUGH THE DOCUMENT.

24 SO DR. PULLINS, WOULD YOU REFER A PATIENT
25 FOR AN EVALUATION OF A DIAGNOSES THAT THEY HAVE ALREADY

1 BEEN ON?

2 A. NO.

3 Q. OKAY. DO YOU SEE HERE -- CAN YOU TELL US WHAT
4 YOU ARE WITNESSING HERE ON LINE -- UNDER THE ASSESSMENT
5 PLAN?

6 A. YES. SO ON THE ASSESSMENT PLAN, WHAT THAT
7 NORMALLY ENTAILS IS A DIAGNOSIS AND THEN FOLLOWED BY THE
8 DIAGNOSIS YOU SEE THOSE NUMBERS, THAT'S ICE TIN CODE.
9 THAT'S THE CODING FOR BILLING. AND THE PLAN IS
10 BASICALLY WHAT THAT CLINICIAN FELT WAS AN APPROPRIATE
11 PLAN FOR GOING FORWARD WITH THAT PARTICULAR DIAGNOSIS.

12 Q. AND IN THIS PLAN, WHAT WAS THE -- CAN YOU READ
13 THIS LAST LINE HERE?

14 A. YES. THE PLAN IS TO REFER TO PSYCHIATRY FOR
15 EVALUATION AND TREATMENT.

16 Q. AND THE DATE IS?

17 A. JULY 26TH OF 2017.

18 Q. MM-HMM.

19 NOW, WOULD IT BE IN YOUR -- BY READING
20 THIS NOTE, WOULD IT TELL YOU THAT THE PERSON OR THIS
21 PARTICULAR PATIENT WOULD HAVE HAD AN EVALUATION?

22 MS. MEW: OBJECTION.

23 THE WITNESS: YES.

24 THE COURT: THERE WAS AN OBJECTION THERE,
25 WHICH I ASSUME WAS BECAUSE THE QUESTION WAS LEADING,

1 WHICH IT WAS. I AM GOING TO OVERRULE IT, BUT DR.
2 KITCHENS, REMEMBER, TRY TO ASK YOUR WITNESS OPEN-ENDED
3 QUESTIONS.

4 DR. KITCHENS: YES. YES, SIR.

5 BY DR. KITCHENS:

6 Q. I'M GOING TO NOW -- DR. PULLINS, IN YOUR
7 CAPACITY, DO YOU TREAT -- OR WOULD YOU WRITE -- DO YOU
8 WRITE LETTERS OF RECOMMENDATIONS ON BEHALF OF YOUR
9 PATIENTS?

10 A. LET ME CLARIFY, I WRITE LETTERS OF
11 ACCOMMODATION.

12 Q. SO THAT WAS YES?

13 A. YES. I WANTED TO CLARIFY THE TERM USED. YOU
14 SAID RECOMMENDATION. I TEND TO USE LETTERS OF
15 ACCOMMODATION.

16 Q. YES. SORRY ABOUT THAT.

17 DR. KITCHENS: BEFORE WE END OUT OF HERE,
18 I WOULD LIKE TO SUBMIT INTO THE RECORD PX03, THE ENTIRE
19 DOCUMENT.

20 MS. MEW: NO OBJECTION.

21 THE COURT: ANY OBJECTION?

22 I JUST HEARD THAT, SORRY, MS. MEW, I
23 TALKED OVER YOU.

24 HEARING NO OBJECTION PX03 IS ADMITTED.

25 (PLAINTIFF EXHIBIT 03 IS ADMITTED INTO

1 EVIDENCE.)

2 BY DR. KITCHENS:

3 Q. SO DR. PULLINS, YOU SAY THAT YOU WOULD WRITE
4 LETTERS OF RECOMMENDATION?

5 A. YES.

6 DR. KITCHENS: I WOULD LIKE TO BRING UP
7 EXHIBIT PX57. I'M SORRY, YOUR HONOR.

8 BY DR. KITCHENS:

9 Q. I AM GOING TO BE PULLING UP EXHIBIT 57, PX57.
10 ALL RIGHT. HERE WE ARE.

11 SO DR. PULLINS, CAN YOU -- CAN EVERYONE
12 SEE THIS DOCUMENT HERE?

13 MS. MEW: YES.

14 THE COURT: YES.

15 BY DR. KITCHENS:

16 Q. DR. PULLINS, CAN YOU TELL US THE NAME OF THE
17 INSTITUTION ON THIS DOCUMENT?

18 A. THIS IS FROM NORTHWESTERN MEDICINE.

19 Q. CAN YOU READ THE DOCUMENT STARTING HERE?

20 A. TO WHOM IT MAY CONCERN, THIS IS TO CERTIFY THAT
21 MARKCUS KITCHENS IS MY PATIENT. HE HAS SIGNIFICANT
22 ANXIETY, AND IS UNDER MY TREATMENT. I WILL SUGGEST EXAM
23 COORDINATORS TO PROVIDE HIM SOME RELAXATION ALLOWED IN
24 THE RULES AS IT WILL BE EASIER ON HIM TO UNDERGO THE
25 EXAM.

1 IF YOU HAVE ANY QUESTIONS, PLEASE DO NOT
2 HESITATE TO CALL ME. THANK YOU FOR INCLUDING US AS
3 MEMBERS OF YOUR HEALTHCARE TEAM, SINCERELY, DOCTOR GORY
4 KAHN.

5 DR. KITCHENS: FOR THE RECORD, IT'S ONLY
6 ONE PAGE HERE AND CONTACT INFORMATION HERE.
7 BY DR. KITCHENS:

8 Q. DR. PULLINS, IN YOUR EXPERIENCE IS THIS A LETTER
9 THAT IS UNCOMMON PRACTICE TO DO?

10 MS. MEW: OBJECTION, YOUR HONOR.

11 DR. KITCHENS: SORRY.

12 MS. MEW: MY OBJECTION IS MORE ON
13 FOUNDATION, WHAT EXPERIENCES IS THIS BASED ON?

14 DR. KITCHENS: AS A FAMILY --

15 THE COURT: DR. KITCHENS, WHY DON'T -- GO
16 AHEAD AND REPHRASE IT.

17 DR. KITCHENS: YES, THANK YOU.

18 BY DR. KITCHENS:

19 Q. DR. PULLINS, WHAT IS YOUR INTERPRETATION OF THIS
20 DOCUMENT?

21 A. SO THIS IS A STANDARD LETTER ACCOMMODATION THAT
22 IS REQUESTED ON ALMOST A WEEKLY BASIS FROM PATIENTS FOR
23 VARIOUS REASONS, WHETHER IT'S TO HAVE A SERVICE ANIMAL,
24 WHETHER IT'S -- WHATEVER, THERE IS MULTIPLE REASONS WHY
25 WE GET THESE REQUESTS.

1 Q. OKAY. AND DO YOU HAVE ANY -- I WILL MOVE ON. I
2 AM TRYING TO MAKE SURE I DON'T ASK DIRECT QUESTIONS
3 THERE.

4 WHEN YOU ARE LOOKING AT THIS PARTICULAR
5 DOCUMENTATION OR WHEN YOU ARE WRITING A LETTER OF
6 RECOMMENDATION, HOW WOULD YOU DETERMINE THE LENGTH OF
7 EXTRA TIME GIVEN?

8 MS. MEW: OBJECTION, YOUR HONOR.

9 JUST -- DR. KITCHENS, YOU ASKED -- I
10 THINK YOU HAVE ASKED TWO DIFFERENT QUESTIONS THERE.

11 THE COURT: I AM GOING TO OVERRULE THAT.

12 AND DR. KITCHENS, WHY DON'T YOU -- IT'S
13 GOOD TO ASK ONE QUESTION AT A TIME.

14 GENERALLY SPEAKING FOR THAT TYPE OF
15 OBJECTION, MS. MEW, WE WILL JUST LET THE WITNESS GO AND
16 TAKE IT IN THE FLOW.

17 MS. MEW: IT WAS MORE SUBSTANTIVE THAN
18 THAT, YOUR HONOR, BECAUSE THE FIRST PART WAS ASKING
19 ABOUT PEOPLE GENERALLY, AND THEN SECOND PART WAS ABOUT
20 DR. PULLINS SPECIFICALLY. SO I JUST --

21 THE COURT: GO AHEAD AND REPHRASE, DR.
22 KITCHENS.

23 DR. KITCHENS: SORRY ABOUT THAT. I WAS
24 TRYING TO --
25 BY DR. KITCHENS:

1 Q. HOW WOULD YOU, DR. PULLINS, DETERMINE THE LENGTH
2 OF EXTRA TIME GIVEN WHEN WRITING A DOCUMENT OF SUCH?

3 A. SO NORMALLY WHEN WE WRITE A LETTER OF
4 ACCOMMODATION, UNLESS WE HAVE THE PARTICULARS OF LIKE,
5 FOR EXAMPLE, LET'S SAY I KNOW A PERSON WORKS AN
6 EIGHT-HOUR DAY. DEPENDING ON WHATEVER THE ISSUE IS, I
7 MAY SAY THEY CAN ONLY WORK FOUR-HOUR HALF A DAY. SO IT
8 REALLY DEPENDS ON THE SEVERITY OF THE SYMPTOMS.

9 AS FAR AS THIS EXAM THAT YOU ARE TALKING
10 ABOUT, SOMETIMES WE DON'T NECESSARILY MAKE THE DECISION
11 ON THE EXACT TIME LIMITS, THAT'S BEYOND OUR SCOPE. BUT
12 WE WILL REQUEST THAT WHOEVER THE ORGANIZATION IS THAT
13 THEY TAKE INTO CONSIDERATION THE UNDERLYING ISSUE AT
14 HAND, WHEN IT'S PAIN, WHETHER IT'S ADHD OR DEPRESSION,
15 ANXIETY, WHATEVER THE SITUATION IT.

16 Q. DR. PULLINS, DO YOU FEEL THAT THE NBME'S --
17 SORRY.

18 DR. KITCHENS: I WOULD LIKE TO SUBMIT
19 THIS DOCUMENT INTO THE RECORD, PX57, THE ENTIRE
20 DOCUMENT.

21 THE COURT: MS. MEW?

22 MS. MEW: NO OBJECTION, YOUR HONOR.

23 THE COURT: ADMITTED.

24 (PLAINTIFF EXHIBIT 57 IS ADMITTED INTO
25 EVIDENCE.)

1 BY DR. KITCHENS:

2 Q. SO DR. PULLINS, I WOULD LIKE TO ASK YOU, DO YOU
3 FEEL THAT THE NBME'S STAFF OR THIRD PARTY EVALUATORS
4 WOULD KNOW MORE ABOUT YOUR PATIENTS -- LET ME ASK IT
5 THIS WAY.

6 WHAT IS YOUR INTERPRETATION OF THE NBME'S
7 STAFF OR THIRD PARTY EVALUATORS'S KNOWLEDGE ABOUT YOUR
8 PATIENT --

9 MS. MEW: OBJECTION.

10 DR. KITCHENS: -- SOLELY BASED ON
11 DOCUMENTATION.

12 MS. MEW: OBJECTION, YOUR HONOR. THERE
13 IS NO FOUNDATION FOR THAT.

14 THE COURT: DR. KITCHENS, I'M NOT SURE.
15 THIS QUESTION FEELS A LITTLE BIT TO ME OUT OF LEFT
16 FIELD. I UNDERSTAND -- I KNOW WHY YOU ARE ASKING IT,
17 BUT COULD YOU SET UP WITH THE WITNESS A LITTLE MORE
18 ABOUT WHAT YOU ARE TRYING TO GET AT?

19 DR. KITCHENS: OKAY. I'M SORRY, I AM
20 TRYING NOT TO DO LEADING QUESTIONS.

21 BY DR. KITCHENS:

22 Q. I GUESS WHAT I AM -- DR. PULLINS, WOULD YOU SAY
23 THAT A PHYSICIAN TREATING THAT PATIENT WOULD KNOW MORE
24 ABOUT -- HAVE SUBSTANTIAL INFORMATION ABOUT THEIR
25 PATIENT'S TREATMENT?

1 THE COURT: DR. KITCHENS, I THINK IF YOU
2 WOULD LIKE TO ASK QUESTIONS ABOUT THE NBME'S EVALUATION
3 AND ASK THE WITNESS QUESTIONS ABOUT HIS THOUGHTS ON IT,
4 YOU MIGHT NEED TO EXPLORE THAT WITH THE WITNESS A
5 LITTLE, HIS KNOWLEDGE FIRST.

6 DR. KITCHENS: OKAY.

7 BY DR. KITCHENS:

8 Q. SO DR. PULLINS, WHEN -- WHAT IS YOUR
9 UNDERSTANDING OF THE PROCESS OF WHEN A PERSON SUBMITS
10 THE APPLICATION OR REQUESTING ACCOMMODATIONS TO THE
11 NBME?

12 A. SO YOU PROVIDED AN EXHIBIT EARLIER THAT WAS THE
13 REQUEST FOR ACCOMMODATIONS FORM, SO I WAS ABLE TO REVIEW
14 THAT. AND I THINK THERE WAS THREE CRITERIA THAT THE
15 NBME HAD LISTED FOR THE CRITERIA FOR MEETING -- TO
16 QUALIFY PATIENTS FOR A DISABILITY.

17 Q. OKAY.

18 DR. KITCHENS: YOUR HONOR, I WOULD LIKE
19 TO SHOW EXHIBIT PX75.

20 THE COURT: GO AHEAD.

21 BY DR. KITCHENS:

22 Q. SO DR. PULLINS, HERE ON THIS -- BASED ON THIS
23 FLOW CHART THAT IS -- CAN YOU TALK ABOUT THIS PARTICULAR
24 DOCUMENT OF WHAT YOU ARE NOTICING HERE IN FRONT OF YOU?

25 A. YES. SO THIS LOOKS LIKE THIS IS AN ALGORITHM

1 THAT THE NBME USES AS FAR AS THEIR DECISION-MAKING TO
2 DECIDE WHETHER AN APPLICANT QUALIFIES FOR ACCOMMODATIONS
3 UNDER ADA GUIDELINES.

4 MS. MEW: YOUR HONOR, I OBJECT AND MOVE
5 TO STRIKE. THE WITNESS DOES NOT HAVE ANY KNOWLEDGE OF
6 THIS DOCUMENT.

7 THE COURT: I ASSUME WE ARE HEADED
8 TOWARDS ASKING THE WITNESS'S OPINION ABOUT SOMETHING,
9 AND THIS MAY HAVE BEEN SOMETHING HE CONSIDERED IN
10 FORMING HIS OPINIONS, MAYBE, MAYBE NOT. LET'S SEE WHERE
11 IT GOES.

12 OVERRULED FOR NOW.

13 BY DR. KITCHENS:

14 Q. SO DR. PULLINS, BY LOOKING AT THIS FLOW CHART
15 HERE, YOU HAVE GIVEN YOUR INTERPRETATION ON THIS. BASED
16 ON IT, WOULD YOU SAY THAT THE DOCUMENTATION THAT -- WHAT
17 WOULD YOU SAY THAT THE NBME RELIES ON WHEN GOING THROUGH
18 THIS FLOW CHART ON APPLICANTS FOR ACCOMMODATIONS?

19 MS. MEW: OBJECTION, YOUR HONOR, I DON'T
20 THINK THERE IS ANY BASIS FOR HIM TO PROVIDE AN OPINION
21 UPON THAT.

22 THE COURT: I WOULD LIKE TO HEAR THE
23 RESPONSE AND SEE WHERE WE GO.

24 THE WITNESS: YES. I AM LOOKING AT THE
25 ALGORITHM, IT'S RIGHT IN FRONT OF ME. SO I CAN -- I

1 DON'T THINK THERE IS ANY SECRETS. I SEE WHAT THE
2 ALGORITHM STATES. AND SO SUPPORTING DOCUMENTATION, SO
3 BASICALLY A REVIEW OF FILES, PAPERWORK, THAT THAT'S WHAT
4 IS THE MAINSTAY AS FAR AS WHAT IS BEING USED TO MAKE
5 THAT DECISION.

6 BY DR. KITCHENS:

7 Q. OKAY. THANK YOU.

8 DR. KITCHENS: AND, YOUR HONOR, I WOULD
9 LIKE TO ADMIT EXHIBIT PX75 INTO THE RECORD.

10 MS. MEW: NO OBJECTION, YOUR HONOR.

11 THE COURT: ADMITTED.

12 (PLAINTIFF EXHIBIT 75 IS ADMITTED INTO
13 EVIDENCE.)

14 BY DR. KITCHENS:

15 Q. SO DR. PULLINS, I WOULD LIKE TO MOVE ON HERE TO
16 ASK ABOUT -- YOU SAID EARLIER THAT YOU DID DIFFERENT
17 ARTICLES FOCUSING ON RACE AND REPRESENTATION OF PEOPLE
18 IN THE AFRICAN AMERICAN DIASPORA. AND I WOULD LIKE TO
19 ASK YOU IN YOUR PROFESSIONAL OPINION AND A LIFELONG
20 EXPERIENCE AS AN AFRICAN AMERICAN, WHAT IS YOUR
21 PERCEPTION ON AFRICAN AMERICANS SEEKING OUT MENTAL
22 HEALTH TREATMENT?

23 MS. MEW: OBJECTION, YOUR HONOR. JUST
24 FOR THE RECORD, I DON'T THINK, AGAIN, THAT THIS IS
25 FIRST, RELEVANT TO THE CASE. OR SECOND, AGAIN, DR.

1 PULLINS'S EXPERIENCES ARE ALSO SOMETHING THAT HE COULD
2 BASE HIS OPINION ON THAT WOULD -- THE ISSUES IN THIS
3 CASE.

4 DR. KITCHENS: YOUR HONOR --

5 THE COURT: THAT'S OKAY, DR. KITCHENS, I
6 DON'T NEED ANY RESPONSE.

7 AS TO RELEVANCE, THE RELEVANCE OF THIS
8 LINE OF QUESTIONING I THINK I PROBABLY WON'T FULLY KNOW
9 THAT UNTIL WE GET CLOSER TO THE END OF THE CASE, SO I AM
10 GOING TO ALLOW IT TO PROCEED, NUMBER ONE.

11 AND NUMBER TWO, I UNDERSTAND YOUR
12 OBJECTION ABOUT THE WAY IN WHICH THE QUESTIONS ARE
13 PHRASED. MY VIEW ON THIS IS IT'S MORE OF A QUESTION OF
14 THE PHRASING OF THE QUESTION AS OPPOSED TO WHAT IS
15 REALLY INTENDED. I THINK WHAT IS BEING ELICITED HERE
16 ARE DR. PULLINS'S OPINIONS IN RESPECT TO WHATEVER
17 QUESTION IS BEING ASKED, THE QUESTIONS ARE BEING PHRASED
18 IN SOMETIMES USING PERSONAL PRONOUNS, BUT I DON'T THINK
19 THAT'S WHAT IS -- AT LEAST I DON'T THINK THAT'S WHAT IS
20 INTENDED, SO I AM GOING TO OVERRULE THAT.

21 GO AHEAD, DR. KITCHENS.

22 BY DR. KITCHENS:

23 Q. DR. PULLINS, I WILL ASK THE QUESTION AGAIN.

24 IN YOUR PROFESSIONAL CAPACITY AND
25 TREATING ALL DIFFERENT RACES, WHAT WOULD YOU -- WHAT

1 WOULD BE YOUR OPINION ON -- BASED ON EXPERTISE ON
2 AFRICAN AMERICANS SEEKING OUT MENTAL HEALTH TREATMENT?

3 A. I WOULD SAY THAT AS A WHOLE THAT MENTAL HEALTH
4 IS STILL A VERY TABOO TOPIC IN THE AFRICAN AMERICAN
5 COMMUNITY. I WOULD SAY PROBABLY THE LAST FIVE OR
6 TEN YEARS THERE HAS BEEN A LITTLE BIT MORE ACCEPTANCE
7 AND UNDERSTANDING THAT THIS IS A REAL ISSUE, JUST LIKE
8 HYPERTENSION OR DIABETES IS AN ISSUE.

9 THAT IS ONE OF THE THINGS THAT I DO EACH
10 SUMMER IS I SPEND TWO MONTHS DOING A HEALTH SUMMER
11 SERIES TO HELP INCREASE HEALTH LITERACY BECAUSE NOT
12 HAVING ACCESS TO THE PROPER INFORMATION CAN LEAD TO LOSS
13 IN MULTIPLE LEVELS.

14 AND SO I THINK THAT ON THE WHOLE, YES,
15 THAT THAT'S A TABOO SUBJECT. AND SO TRYING TO SEEK HELP
16 FOR ISSUES THAT YOU ARE IN DENIAL EVEN EXISTS, THAT
17 CREATES PROBLEMS.

18 Q. THANK YOU, DR. PULLINS.

19 I WOULD LIKE TO SAY -- I WOULD LIKE TO
20 MOVE ON HERE. AND WHEN WE ARE LOOKING AT DIFFERENT
21 THINGS SUCH AS -- I WANT TO GO KIND OF A LITTLE BIT MORE
22 PERSONAL HERE TO GET A LITTLE BIT MORE BACKGROUND FROM
23 YOU, DR. PULLINS.

24 ACCORDING YOUR C.V., DR. PULLINS, WHERE
25 DID YOU GO TO MEDICAL SCHOOL?

1 A. LOYOLA STRITCH SCHOOL OF MEDICINE IN CHICAGO.

2 Q. HOW WOULD YOU DESCRIBE -- HOW WOULD YOU DESCRIBE
3 YOUR PLACEMENT AND PERCENTILE IN YOUR CLASS?

4 MS. MEW: YOUR HONOR, OBJECTION, I DON'T
5 THINK THIS IS RELEVANT.

6 DR. KITCHENS: I AM GOING SOMEWHERE WITH
7 THIS, YOUR HONOR.

8 MS. MEW: CAN WE HAVE AN OFFER OF PROOF
9 FIRST?

10 DR. KITCHENS: EXPLANATION?

11 THE COURT: DR. KITCHENS, I AM GOING TO
12 GIVE YOU A LITTLE LEEWAY. LET'S JUST GET A FEW MORE
13 QUESTIONS OUT SO I CAN UNDERSTAND WHAT YOUR THINKING IS,
14 ALL RIGHT?

15 DR. KITCHENS: YES, YOUR HONOR, THANK
16 YOU.

17 BY DR. KITCHENS:

18 Q. SO DR. PULLINS, I WILL ASK AGAIN, WHAT WOULD BE
19 YOUR INTERPRETATION OF WHERE YOU PLACED IN YOUR CLASS,
20 IN YOUR MEDICAL SCHOOL CLASS, PERCENTILE?

21 A. I DON'T HAVE A NECESSARY NUMBER, BUT I WOULD SAY
22 BELOW 50 PERCENT.

23 Q. SO WHILE IN SCHOOL, HOW WOULD YOU -- HOW WOULD
24 YOU EXPLAIN YOUR EXPERIENCE DURING CLASS WORK WHILE IN
25 MEDICAL SCHOOL?

1 SPECIFIC QUESTION, IN ADDITION TO MY SORT OF MY PENDING
2 OBJECTION ON THIS WHOLE LINE OF TESTIMONY.

3 THE COURT: OVERRULED FOR NOW.

4 THE WITNESS: SO WITHOUT SEEING ANY
5 ACTUAL NUMBERS, I CAN'T -- I WOULD BE GUESSING. I DON'T
6 KNOW WHAT THAT PERCENTAGE WOULD BE.

7 BY DR. KITCHENS:

8 Q. DR. PULLINS, WHAT IS YOUR UNDERSTANDING OF -- DO
9 YOU HAVE ANY KNOWLEDGE OR INSIGHT ON HOW AFRICAN
10 AMERICANS TEST COMPARED TO OTHER, SAY THEIR WHITE
11 COUNTERPARTS OR -- YES.

12 A. SO AGAIN, I DON'T HAVE ANY PARTICULAR
13 PERCENTAGES TO GIVE YOU A CLEAR ANSWER ON THAT.

14 I WILL SAY THIS, AS AN AFRICAN AMERICAN
15 MALE PHYSICIAN, I MAKE UP LESS THAN THREE PERCENT OF ALL
16 AFRICAN AMERICAN PHYSICIANS, AND THAT WAS AS OF 2023.
17 SO I THINK WE ARE 2.7 PERCENT. IN 1940, THE PERCENTAGE
18 OF AFRICAN AMERICAN MALES WAS 2.8. SO WE WENT
19 BACKWARDS. I THINK THAT THE AFRICAN AMERICAN POPULATION
20 WAS AROUND 9.7 PERCENT BACK IN 1940, AND NOW IT IS -- WE
21 ARE 13 PERCENT, YET THE PERCENTAGES WENT DOWN.

22 SO WHEN I LOOK AT THAT NUMBER, IT MAKES
23 ME -- IT'S HARD FOR ME TO BELIEVE THAT THERE IS NOT
24 OTHER FACTORS THAT PLAY THAT IS KEEPING THAT NUMBER
25 WHERE IT IS.

1 Q. DR. PULLINS, WHEN YOU APPLIED FOR --
2 APPROXIMATELY HOW MANY RESIDENCY PROGRAMS DID YOU APPLY
3 FOR?

4 A. AGAIN, IT HAS BEEN A WHILE. I WOULD SAY
5 PROBABLY IT WAS AROUND FIVE.

6 Q. AND DR. PULLINS, ARE YOU AWARE OF WHAT -- ARE
7 YOU AWARE THAT SOME PROGRAMS, RESIDENCY PROGRAMS, LOOK
8 AT DIFFERENT FACTORS WHEN ACCEPTING APPLICANTS?

9 A. YES.

10 Q. CAN YOU GIVE THE COURT SOME INSIGHT OF WHAT
11 THESE RESIDENCY PROGRAMS ARE LOOKING AT?

12 MS. MEW: OBJECTION, YOUR HONOR, I DON'T
13 THINK AN ADEQUATE FOUNDATION HAS BEEN LAID.

14 THE COURT: OVERRULED FOR NOW.

15 GO AHEAD.

16 THE WITNESS: SO THE QUESTION WAS, WHAT
17 DO RESIDENCY PROGRAMS LOOK FOR IN APPLICANTS?
18 BY DR. KITCHENS:

19 Q. YES.

20 A. SO OBVIOUSLY YOU LOOK AT TRANSCRIPTS AND GRADES.
21 ALSO WE ARE GOING TO LOOK AT WHAT IS -- WHAT ARE THEY
22 LOOKING FOR IN A CANDIDATE, SO THAT THERE MAY BE
23 VOLUNTEER WORK, OTHER THINGS THAT SHOWED THE CANDIDATES
24 ARE WELL-ROUNDED, THAT THEY WILL TAKE INTO CONSIDERATION
25 AS FAR AS WHETHER THEY PURSUE A PARTICULAR APPLICANT OR

1 NOT.

2 Q. THANK YOU, DR. PULLINS.

3 DR. KITCHENS: YOUR HONOR, I WOULD LIKE
4 TO BRING IN EXHIBIT PX79.

5 DR. PULLINS, CAN YOU TELL US HERE --
6 LET'S SEE. ONE SECOND.

7 CAN YOU TELL US HERE -- DR. PULLINS, CAN
8 YOU READ THIS SECTION HERE?

9 MS. MEW: YOUR HONOR, AGAIN, BEFORE WE
10 GET INTO IT, I OBJECT. THIS IS A UNIVERSITY OF KENTUCKY
11 DOCUMENT, IT LOOKS LIKE. AND I DON'T THINK THAT DR.
12 PULLINS HAS ANY FIRSTHAND KNOWLEDGE OF THIS DOCUMENT.

13 THE COURT: SORRY, DR. KITCHENS, CAN YOU
14 ESTABLISH THROUGH THE WITNESS A SENSE OF WHAT WE ARE
15 LOOKING AT?

16 DR. KITCHENS: YES, SIR. SORRY YOUR
17 HONOR. SO YOU WOULD LIKE FOR ME TO ESTABLISH WHAT THIS
18 DOCUMENT IS?

19 THE COURT: RIGHT, FOR MY BENEFIT ALSO SO
20 THAT I UNDERSTAND IT. IT WILL HELP ME UNDERSTAND THE
21 WITNESS'S TESTIMONY, TO UNDERSTAND THE WITNESS'S
22 UNDERSTANDING OF THE DOCUMENT.

23 DR. KITCHENS: YES, SIR. SO THIS
24 DOCUMENT HERE IS A PRINTOUT OF THE WEBSITE FROM THE
25 UNIVERSITY OF KENTUCKY'S RESIDENCY PROGRAM AND INTERNAL

1 MEDICINE .

2 THE COURT: I WANTED YOU TO ASK THE
3 WITNESS THESE QUESTIONS.

4 DR. KITCHENS: I'M SO SORRY.

5 BY DR. KITCHENS:

6 Q. DR. PULLINS.

7 A. YES.

8 Q. CAN YOU TELL ME ABOUT THIS DOCUMENT HERE?

9 A. YES. THIS LOOKS LIKE THIS IS A SCREEN SHOT OF A
10 WEB PAGE FROM THE UNIVERSITY OF KENTUCKY INTERNAL
11 MEDICINE RESIDENCY PROGRAM. THEY GAVE ME INFORMATION OR
12 BACKGROUND INFORMATION ON THE PROCESSES THAT THEY
13 PARTICIPATE IN AS FAR AS THE RESIDENCY PROGRAM.

14 Q. AND SO HERE -- DR. PULLINS, CAN YOU READ THIS,
15 THE HIGHLIGHTED REQUIREMENTS, ADDITIONAL PROGRAM
16 REQUIREMENTS HERE?

17 A. YES. ADDITIONAL PROGRAM REQUIREMENTS. OUR
18 APPLICATION REVIEW RELIES ON THE MEDICAL SCHOOL
19 PERFORMANCE EVALUATION, INTERNAL MEDICINE STANDARD
20 EVALUATION LETTERS FROM YOUR CLERKSHIPS, PERSONAL
21 STATEMENTS AND THREE LETTERS OF RECOMMENDATION. WE
22 EXPECT A FIRST-TIME PASSING SCORE ON STEP 1. WE
23 GENERALLY PREFER A UNITED STATES MEDICAL LICENSE EXAM
24 STEP 2 SCORE AROUND THE MEAN.

25 Q. SO DR. PULLINS, WITH READING THIS STATEMENT,

1 WHAT WOULD YOU GATHER -- WHAT WOULD YOU GATHER FROM THIS
2 LINE HERE?

3 MS. MEW: OBJECTION, YOUR HONOR.

4 THE COURT: OVERRULED. I AM STILL NOT
5 ENTIRELY SURE WHERE WE ARE HEADED ON THIS. I WANT TO
6 KEEP LISTENING.

7 MS. MEW: OKAY.

8 THE WITNESS: SO MY INTERPRETATION WOULD
9 BE THAT THEY DO NOT EVEN CONSIDER APPLICANTS WHO HAVE
10 NOT PASSED STEP 1 THE FIRST TIME.

11 BY DR. KITCHENS:

12 Q. SO IF I AM UNDERSTANDING YOU CORRECTLY, DR.
13 PULLINS, IF A CANDIDATE IS -- SAY A CANDIDATE HAS FAILED
14 STEP 1, THREE TIMES, BY READING THIS LINE, WHAT WOULD
15 THE -- DO YOU FEEL THAT THAT CANDIDATE WOULD BE OFFERED
16 A POSITION IN THEIR RESIDENCY PROGRAM?

17 MS. MEW: I'M SORRY?

18 THE WITNESS: HIGHLY UNLIKELY.

19 DR. KITCHENS: THANK YOU, YOUR HONOR, FOR
20 THAT. I WOULD LIKE TO PUT THIS EXHIBIT INTO THE RECORD,
21 EXHIBIT PX79.

22 MS. MEW: YOUR HONOR, I OBJECT. THERE IS
23 NO FOUNDATION. AGAIN, DR. PULLINS IS NOT ASSOCIATED
24 WITH THE UNIVERSITY OF KENTUCKY AND DOES NOT HAVE ANY
25 KNOWLEDGE TO DISCUSS THE REQUIREMENTS OF THE UNIVERSITY

1 OF KENTUCKY.

2 DR. KITCHENS: YOUR HONOR, IT'S AN
3 OFFICIAL PUBLICATION ON THEIR WEBSITE.

4 THE COURT: IT'S A HEARSAY DOCUMENT THAT
5 I -- THE TESTIMONY, WE ARE HAVING SOME GENERAL TESTIMONY
6 ABOUT HOW RESIDENCY PROGRAMS WORK, WHICH I APPRECIATE
7 AND IS HELPFUL TO SOME DEGREE. BUT THIS PARTICULAR
8 DOCUMENT IS A HEARSAY DOCUMENT, UNLESS THE WITNESS CAN
9 TELL ME A LITTLE MORE ABOUT IT.

10 BY DR. KITCHENS:

11 Q. SO DR. PULLINS, TALK MORE ABOUT THIS PARTICULAR
12 DOCUMENT, AS HAVE WE TALKED ABOUT FIRST TIME PASSING
13 SCORE AT THE UNIVERSITY OF KENTUCKY, WHAT THEY ARE
14 LOOKING FOR IN A CANDIDATE.

15 SO THIS DOCUMENT BASICALLY HERE, WHAT
16 WOULD YOU GATHER AS AN OVERALL COMPONENT OF WHAT IS
17 BEING SHOWN HERE OF ADDITIONAL REQUIREMENTS FROM THE
18 UNIVERSITY OF KENTUCKY?

19 SHALL I REPHRASE?

20 A. YES, CAN YOU REPHRASE?

21 Q. OKAY. SO TO HELP THE COURT UNDERSTAND MORE
22 ABOUT THE DOCUMENT HERE AND -- FROM THE UNIVERSITY OF
23 KENTUCKY'S WEBSITE ABOUT THE ADDITIONAL INFORMATION THAT
24 THEY REQUIRE AND IN YOUR OWN WORDS, HOW WOULD YOU
25 SUMMARIZE THIS ENTIRE PARAGRAPH?

1 A. SO I WOULD SAY THIS, THAT THIS KIND OF WEBSITE
2 IS COMMON PRACTICE. THE INFORMATION THAT IS ON THESE
3 WEBSITES, AND THIS IS FOR THE SAKE ALSO OF THE APPLICANT
4 WHO IS CONSIDERING WHICH PROGRAMS THAT THEY WILL EVEN
5 PUT AN APPLICATION IN. AND SO THIS INFORMATION IS
6 HELPFUL, BECAUSE LET'S SAY I AM A FOURTH YEAR MEDICAL
7 STUDENT DECIDING ON WHICH PROGRAMS I AM GOING TO SUBMIT
8 APPLICATIONS TO. I AM GOING TO USE THIS AS A BASIS TO
9 DECIDE IF I SHOULD EVEN DO THAT BASED ON THE
10 REQUIREMENTS OF THAT PARTICULAR PROGRAM.

11 SO IF I HAVE NOTICED -- I AM READING THIS
12 AND IT SAYS THEY EXPECT A FIRST TIME PASSING, FOR ME
13 THAT WOULD DISCOURAGE ME FROM EVEN PUTTING AN
14 APPLICATION INTO THIS PROGRAM, BECAUSE I IF I HAD NOT
15 PASSED IT, THEY ARE STATING THAT THIS IS NOT SOMETHING
16 THAT IS ALLOWABLE.

17 Q. ALL RIGHT. THANK YOU, DR. PULLINS, FOR THAT.

18 DR. KITCHENS: IS THE COURT PLEASED?

19 THE COURT: SO I'M NOT GOING TO ADMIT
20 PX79 FOR NOW. THE REASON FOR THAT IT IS HEARSAY, AND
21 IT'S FINE FOR EXPERTS TO DISCUSS HEARSAY, USE IT IN
22 FORMING THEIR OPINIONS IF IT'S THE KIND OF THING THAT
23 THEY WOULD ORDINARILY LOOK TO. AND I AM COMPLETELY
24 SATISFIED THAT DR. PULLINS WOULD TAKE INTO CONSIDERATION
25 A WEBSITE FOR A MEDICAL SCHOOL ABOUT A RESIDENCY

1 PROGRAM, I AM NOT BOTHERED BY THAT. DR. PULLINS'S
2 TESTIMONY IS FINE.

3 BUT I AM NOT GOING TO ADMIT THE DOCUMENT
4 ITSELF. I DON'T KNOW IF THERE IS ANOTHER WITNESS LATER
5 WHO WOULD MAKE IT ADMISSIBLE, BUT FOR NOW IT'S NOT
6 ADMITTED.

7 DR. KITCHENS: OKAY.

8 BY DR. KITCHENS:

9 Q. SO DR. PULLINS, ARE YOU A -- CAN YOU DESCRIBE
10 THE PROCESS TO THE COURT FOR APPLYING FOR A LICENSING IN
11 A STATE?

12 A. I CAN ONLY SPEAK TO ARIZONA, BECAUSE EACH STATE
13 HAS DIFFERENT REQUIREMENTS, BUT THE MAJORITY OF THEM ARE
14 FAIRLY SIMILAR. SO THEY WANT TO KNOW THAT YOU ARE IN
15 GOOD STANDINGS BY LOOKING AT YOUR TRANSCRIPTS. THEY
16 ALSO WANT TO MAKE SURE THAT THERE IS NO CRIMINAL RECORD.
17 THEY WANT TO LOOK AT ANY LETTERS OF RECOMMENDATIONS AS
18 WELL. THOSE ARE KIND OF THE ESSENTIAL INFORMATION
19 PACKET THAT IS SENT INTO THE STATE BOARD.

20 Q. AND FOR CLARIFICATION, DR. PULLINS, YOU SAID
21 TRANSCRIPTS. WHAT TYPE OF TRANSCRIPTS ARE YOU REFERRING
22 TO?

23 A. SO BASICALLY GRADES, TEST RESULTS, THOSE ARE
24 WHAT I AM SPEAKING OF, WHERE YOU ACTUALLY WENT TO
25 SCHOOL.

1 Q. AND YOU SAID TEST RESULTS. WHAT TYPE OF TEST
2 RESULTS ARE YOU ACTUALLY REFERRING TO HERE?

3 A. SO IN PARTICULAR IN MEDICINE, WE ARE TALKING
4 ABOUT THE USMLE STEP 1, 2 AND 3.

5 Q. SO AM I UNDERSTANDING THAT THESE PARTICULAR
6 EXAMINATIONS ARE IMPORTANT FOR APPLYING FOR STATE
7 LICENSURE?

8 A. YES, THEY ARE TAKEN INTO CONSIDERATION, YES.

9 Q. OKAY. THANK YOU, DR. PULLINS ON THAT.

10 SO I WOULD ASK YOU HERE, CAN YOU EXPLAIN
11 AS A STATE -- AS A LICENSED PHYSICIAN, AND JUST STATING
12 THAT SUCH EXAM TRANSCRIPTS, SUCH AS THE USMLE ARE
13 REVIEWED, CAN YOU GIVE YOUR INSIGHT ON HOW IMPORTANT IT
14 IS -- ON HOW THIS EXAM -- CAN YOU TELL US ABOUT THE
15 POTENTIAL LONG-TERM CONSEQUENCES OF A CANDIDATE IF THEY
16 ARE ALLEGED -- IF THE ALLEGED DISCRIMINATION BY THE
17 DEFENDANT IS NOT ADDRESSED OR REMEDIED BY THE COURT.

18 MS. MEW: OBJECTION TO FORM, YOUR HONOR.

19 THE COURT: IT'S OKAY, DR. PULLINS, YOU
20 CAN ANSWER IF YOU UNDERSTOOD THE QUESTION.

21 THE WITNESS: YES.

22 BY DR. KITCHENS:

23 Q. I WILL REDO IT FOR YOU, DR. PULLINS MORE CLEAR.

24 SO WHAT IS YOUR -- BASED ON YOUR
25 EXPERIENCE AND YOUR OPINION AS A LICENSED PHYSICIAN,

1 WHAT ARE THE POTENTIAL LONG-TERM CONSEQUENCES OF A
2 MULTIPLE FAILED USMLE TRANSCRIPT?

3 A. ARE YOU REFERENCING THAT INTO SEEKING BOARD
4 CERTIFICATION OR TO JUST GET A LICENSE IN GENERAL IN A
5 STATE?

6 Q. IN GENERAL.

7 A. OKAY. SO IN THAT CONTEXT, THE TRANSCRIPTS OR
8 THE TEST SCORES REALLY -- WHERE IT IS GOING TO BE MOST
9 IMPACTFUL IS GOING TO BE DURING THAT FIRST INITIAL
10 LICENSE APPLICATION THAT GOES IN. BECAUSE ONCE YOU GET
11 PASSED THAT, THE SUBSEQUENT YEARS IS NOT AS IMPORTANT.
12 BUT IF YOU DON'T EVEN GET A LICENSE TO BEGIN WITH,
13 OBVIOUSLY THAT'S GOING TO HAVE LONG LASTING
14 IMPLICATIONS, BECAUSE YOU MAY NOT BE ABLE TO PRACTICE IN
15 THAT STATE, SO YOU MAY HAVE TO START LOOKING ELSEWHERE.
16 SO IT IS REALLY THAT FIRST TIME APPLICATION THAT WHERE
17 THOSE TRANSCRIPTS REALLY ARE MOST IMPACTFUL.

18 Q. YOU SAID ABOUT DIFFERENT STATES, THAT THE PERSON
19 CAN APPLY TO.

20 CAN YOU ELABORATE THERE?

21 A. YES. SO EACH STATE HAS THEIR OWN STATE BOARD,
22 MEDICAL LICENSE BOARD. AND SO JUST BECAUSE I AM
23 LICENSED IN ARIZONA DOES NOT MEAN I AM AUTOMATICALLY
24 ACCEPTED IN ILLINOIS, PER SE. SO I WOULD HAVE TO GO
25 THROUGH THE WHOLE PROCESS. IT WOULD BE MORE RIGOROUS

1 VERSUS ME JUST REAPPLYING IN ARIZONA WHERE I AM ALREADY
2 LICENSED.

3 Q. THANK YOU, DR. PULLINS.

4 DR. KITCHENS: YOUR HONOR, I HAVE NO
5 FURTHER QUESTIONS.

6 THE COURT: LET ME ASK A QUESTION TO
7 PROBABLY THE WITNESS. I WILL GIVE FIRST PRIORITY TO --
8 THE NEXT, AS YOU PROBABLY KNOW, DR. PULLINS, MS. MEW IS
9 ENTITLED TO ASK YOU QUESTIONS AT THIS POINT AS WELL FOR
10 CROSS EXAMINATION. JUST BASED ON THE TIME, I WOULD
11 PROBABLY TAKE A LUNCH BREAK HERE, BUT I WANT TO ASK YOU
12 FIRST JUST IN CASE IF YOU ARE REALLY TIGHT ON TIME WE
13 CAN KEEP GOING.

14 THE WITNESS: YES, I EXPECTED TO GO
15 STRAIGHT THROUGH, BECAUSE I DO HAVE PATIENTS IN JUST A
16 LITTLE OVER AN HOUR.

17 THE COURT: OKAY.

18 MS. MEW, CAN WE KEEP GOING?

19 MS. MEW: YES, YOUR HONOR.

20 THE COURT: LET'S KEEP ROLLING. I WILL
21 TURN THE WITNESS OVER TO YOU THEN, MS. MEW.

22 CROSS-EXAMINATION

23 BY MS. MEW:

24 Q. DR. PULLINS, DID I UNDERSTAND YOU CORRECTLY THAT
25 YOU STATED WHEN YOU WERE DOING AN ADHD DIAGNOSIS YOU

1 LIKED TO PROVIDE RATING SCALES TO TEACHERS OR EMPLOYERS
2 OF YOUR PATIENT, IS THAT RIGHT?

3 A. THAT IS CORRECT.

4 Q. AND YOU ALSO -- I BELIEVE YOU ALSO TESTIFIED
5 THAT YOU ARE LOOKING FOR NOT ONLY INFORMATION ABOUT THE
6 SYMPTOMS THAT A PATIENT IS DESCRIBING, BUT ALSO THE
7 IMPAIRMENT THAT THEY ARE EXPERIENCING AS A RESULT OF THE
8 SYMPTOMS, CORRECT?

9 A. THAT IS CORRECT.

10 Q. HAVE YOU EVER SERVED ON A MEDICAL LICENSING
11 BOARD?

12 A. I HAVE NOT.

13 Q. HAVE YOU EVER SERVED AS A LEADER OF A MEDICAL
14 RESIDENCY PROGRAM WHO DECIDES WHO IS ACCEPTED INTO A
15 MEDICAL RESIDENCY PROGRAM?

16 A. NO, I HAVE NOT.

17 Q. AND JUST SO I AM CLEAR, YOU NEVER PROVIDED
18 MEDICAL CARE TO DR. KITCHENS. IS THAT CORRECT?

19 A. THAT IS CORRECT.

20 Q. OR EVALUATED HIM IN ANY WAY?

21 A. THAT IS ALSO CORRECT.

22 MS. MEW: I DON'T HAVE ANY OTHER
23 QUESTIONS, YOUR HONOR.

24 THE COURT: DR. KITCHENS, DO YOU HAVE ANY
25 REDIRECT?

1 DR. KITCHENS: YES, YOUR HONOR, I DO.

2 REDIRECT EXAMINATION

3 BY DR. KITCHENS:

4 Q. DR. PULLINS, IN YOUR PRACTICE AT WORKING AT MAYO
5 CLINIC, DOES MAYO CLINIC OFFER A RESIDENCY PROGRAM?

6 A. YES, MULTIPLE RESIDENCY PROGRAMS.

7 Q. WHAT PROGRAMS ARE THOSE, SOME OF THEM?

8 A. FAMILY MEDICINE, INTERNAL MEDICINE, DERMATOLOGY,
9 ANESTHESIOLOGY, CARIOLOGY.

10 Q. AND SO IN YOUR 20-YEAR TENURE AT MAYO CLINIC,
11 HAVE YOU HAD RESIDENTS -- HAVE YOU WORKED WITH
12 RESIDENTS?

13 A. YES.

14 Q. DO YOU HAVE COLLEAGUES OF YOURS WHO ARE A PART
15 OF MAYO CLINICS -- WHO SIT ON MAYO CLINIC'S BOARD FOR
16 RESIDENCY PROGRAM?

17 A. YES.

18 Q. AND WOULD YOU KNOW BY YOUR EXPERIENCE AND
19 WORKING WITH THIS -- HOW LONG HAVE YOU WORKED AT MAYO
20 CLINIC?

21 A. I TRAINED HERE, BUT I WORKED HERE AS A
22 CONSULTANT SINCE 2013, SO TEN YEARS.

23 Q. TEN YEARS YOU'VE BEEN THERE. AND SO YOU SAY
24 THAT YOU HAVE HAD RESIDENTS AND YOUR COLLEAGUES ARE ON
25 THE BOARD FOR RESIDENCY PROGRAM, ET CETERA. OKAY.

1 WHEN LOOKING AT THE -- YOU STATED THAT
2 YOU HAVE NEVER TREATED ME, CORRECT?

3 A. THAT IS CORRECT.

4 Q. FROM THE DOCUMENTATION -- I GUESS, WHAT I AM
5 WANTING TO GET AT HERE IS, WHAT WOULD BE YOUR OPINION AS
6 AN EXPERIENCED PHYSICIAN ON TAKING, LET'S SAY -- SORRY,
7 ONE SECOND.

8 IN YOUR EXPERIENCE FROM WORKING AS A
9 FAMILY MEDICINE PHYSICIAN FOR 20-PLUS YEARS, WOULD
10 YOU -- WHAT WOULD BE YOUR OPINION ON REFERRING TO A
11 PATIENT ON -- SOLELY ON DOCUMENTATION, OR DOCUMENTATION
12 FROM THE TREATING PHYSICIAN, WHAT WOULD BE YOUR OPINION?

13 A. CAN YOU -- I'M SORRY, CAN YOU REPHRASE THAT?

14 Q. YES. SO TO MAKE IT PLAINLY, HOW WOULD YOU WEIGH
15 IN ON A DOCUMENT -- ON JUST DOCUMENTATION OF A PATIENT'S
16 ILLNESS OR THE TREATING PHYSICIAN WHO KNOWS THAT PATIENT
17 AND SEES THE PATIENT AND WHO WROTE THE DOCUMENTATION,
18 HOW WOULD YOU RATE THOSE OR WEIGH INTO ACCOUNT OF THOSE
19 DOCUMENTATION?

20 A. YES. SO DOCUMENTATION IS ONLY PART OF IT.
21 THERE HAVE BEEN SCENARIOS WHERE I VIEWED A CONSULTANT'S
22 NOTES AND THERE WOULD BE SOMETHING THAT I JUST DON'T
23 FULLY HAVE THE GRASP ON. AND SO I MAY PICK UP THE
24 TELEPHONE AND CALL THAT PARTICULAR AUTHOR OF THAT
25 DOCUMENT TO GET CLARIFICATION. SOMETIMES THAT EXTRA

1 INFORMATION MAKES ME -- GIVES ME A BETTER COMPREHENSION
2 OF WHAT THE DOCUMENT WAS STATING.

3 Q. SO IS IT YOUR OPINION -- SO TALKING TO THE
4 ACTUAL PRACTICING PHYSICIAN OF THAT PARTICULAR PATIENT
5 IS IMPORTANT, IS THAT WHAT YOU ARE SAYING?

6 A. IT IS DEFINITELY HELPFUL, YES.

7 Q. AND LASTLY HERE, IN YOUR EXPERIENCE, ARE YOU
8 ABLE TO MAKE MEDICAL DECISIONS AND DIAGNOSES BASED ON
9 PREEXISTING MEDICATIONS?

10 LET ME --

11 A. CAN YOU REPHRASE THAT?

12 Q. YES. IN YOUR EXPERIENCE, ARE YOU ABLE TO REVIEW
13 MEDICAL RECORDS AND USE THOSE MEDICAL RECORDS AS A
14 FOUNDATION TO PROCEED ON A PARTICULAR DIAGNOSES OF ONE
15 OF YOUR PATIENTS?

16 A. YES.

17 DR. KITCHENS: THANK YOU, YOUR HONOR, I
18 HAVE NO FURTHER QUESTIONS.

19 THE COURT: ANY RECROSS, MS. MEW?

20 MS. MEW: NO, YOUR HONOR.

21 THE COURT: DR. PULLINS, I JUST HAVE A
22 COUPLE OF QUESTIONS FOR YOU. AND I APOLOGIZE IF THESE
23 ARE REDUNDANT AT ALL, BECAUSE SOMETIMES IT'S HARD TO
24 KEEP EVERYTHING IN MY HEAD.

25 BY THE COURT:

1 Q. HAVE YOU -- WELL, I BELIEVE THAT YOU TESTIFIED
2 ABOUT HAVING PROVIDED PATIENTS WITH RECOMMENDED
3 ACCOMMODATIONS FOR CERTAIN PURPOSES, CORRECT?

4 A. THAT IS CORRECT, YOUR HONOR.

5 Q. HAVE YOU EVER PROVIDED A RECOMMENDED
6 ACCOMMODATION TO A PATIENT FOR TEST TAKING PURPOSES?

7 A. I HAVE, SIR.

8 Q. COULD YOU TELL ME ABOUT THE OCCASIONS WITHOUT,
9 OF COURSE, USING NAMES, BUT CAN YOU TELL ME ABOUT THE
10 OCCASION?

11 A. SURE. SO NORMALLY THESE ARE EITHER COLLEGE
12 STUDENTS, AND IT'S USUALLY TEST TAKING RELATED TYPE OF
13 ACCOMMODATIONS. AT THE HIGH SCHOOL LEVEL A LOT OF TIMES
14 I DON'T HAVE TO GET INVOLVED BECAUSE THE SCHOOL
15 DISTRICTS HAVE THEIR OWN INTERNAL EVALUATORS THAT DECIDE
16 ON WHETHER A STUDENT NEEDS PARTICULAR ACCOMMODATIONS, SO
17 I DON'T REALLY GET THE -- THE MAJORITY OF MINE ARE
18 USUALLY COLLEGE-AGED STUDENTS.

19 Q. I SEE.

20 AND ABOUT HOW MANY TIMES DO YOU REMEMBER
21 GIVING SUCH A RECOMMENDATION?

22 A. WELL, IN THE LAST YEAR I CAN REMEMBER ONE IN
23 PARTICULAR. I CAN TELL YOU THAT ONE FOR SURE.

24 Q. OKAY. WERE ANY OF THOSE OCCASIONS FOR A
25 STANDARDIZED TEST AS FAR AS YOU KNOW?

1 A. NO, THIS WAS JUST FOR THE COLLEGE CLASS
2 COURSEWORK EXAMS.

3 Q. OKAY. WERE ANY OF THE OCCASIONS WHERE YOU GAVE
4 A RECOMMENDED ACCOMMODATION FOR TEST TAKING PURPOSES
5 RELATED TO ADHD OR ANYTHING SIMILAR?

6 A. BEHAVIORAL HEALTH, SO ANXIETY IN PARTICULAR.

7 Q. ANXIETY?

8 A. YES.

9 Q. OKAY. WHEN YOU ARE REACHING YOUR RECOMMENDED
10 ACCOMMODATION, WHAT KINDS OF THINGS DO YOU STUDY, AND
11 WHAT DO YOU TAKE INTO ACCOUNT IN FORMING YOUR OPINION?

12 A. YES. SO NORMALLY I GO BACK AND GET AN ACADEMIC
13 HISTORY, SO I TRY TO FIND OUT WHAT WAS GOING ON EVEN AS
14 EARLY AS ELEMENTARY SCHOOL. AND THEN ASK OBJECTIVELY
15 WHAT KIND OF GRADES THEY ARE SEEING, HOW DID THEY DO AS
16 FAR AS COMPLETING TASKS ON TIME. SO I AM LOOKING AT
17 THOSE PICTURES. AND EVEN ASKING IF A PARENT IS
18 INVOLVED, I WILL TALK WITH THEM AND INTERVIEW THEM AND
19 SAY HEY, DID YOU NOTICE A OR B OR C TYPE OF BEHAVIORS
20 WHEN SALLY JANE WAS IN YOUR HOME. SO I GET ALL OF THAT
21 INFORMATION AND THAT KIND OF HELPS KIND OF PAINT A
22 BIGGER PICTURE OF HOW THIS HAS IMPACTED THAT
23 INDIVIDUAL'S ACADEMIC PERFORMANCE.

24 Q. WHEN YOU ARE REACHING YOUR CONCLUSION ABOUT A
25 RECOMMENDED ACCOMMODATION, DO YOU EVER TAKE INTO ACCOUNT

1 THE PATIENT'S OWN SELF-NARRATIVE?

2 A. YES. I MEAN, IN THEIR OWN WORDS I WANT TO HEAR
3 -- WHAT IS THEIR PERCEPTION OF THE CONDITION AND WHAT --
4 HOW ARE THEY SEEING THAT AS INHIBITING THEIR ABILITY TO
5 PERFORM WHATEVER TASK AT HAND, SO YES, I DEFINITELY TAKE
6 INTO ACCOUNT WHAT THEY HAVE TO SAY AS WELL.

7 Q. IF A PATIENT IS HAVING ACADEMIC SUCCESS, IS
8 ADVANCING THROUGH GRADES, GOES TO COLLEGE, WHATEVER IT
9 MIGHT BE. HOW CAN YOU TELL THAT A PATIENT WHO IS HAVING
10 ACADEMIC SUCCESS ALSO WARRANTS -- OR ALSO DESERVES YOUR
11 RECOMMENDED ACCOMMODATION?

12 A. SO IN MY 20 YEARS, I HAVE NEVER HAD A PATIENT
13 THAT WAS GETTING A'S COME TO ME FOR EVALUATION FOR ADHD
14 OR ADD OR ASK FOR ACCOMMODATION. WHEN THAT HAS
15 HAPPENED, THOSE PATIENTS ARE USUALLY B, C STUDENTS. I
16 THINK WITH ADHD IN PARTICULAR, DEPENDING ON SOMEONE'S
17 I.Q. THEY CAN COMPENSATE VERY WELL FOR YEARS. IT'S NOT
18 UNTIL THE COURSEWORK IS TO A CERTAIN LEVEL THAT IT EVEN
19 MANIFESTS -- THAT THAT'S THE ISSUE. THEY MAY TRY TO
20 STUDY HARDER AND STUDY LONGER, NOT UNDERSTANDING THAT
21 WHAT THEY ARE TRYING TO OVERCOME, THERE IS ACTUALLY A
22 DIAGNOSE THAT IS ACTUALLY UNKNOWN TO THEM.

23 Q. CAN YOU TELL ME A LITTLE MORE ABOUT THE CONCEPT
24 OF COMPENSATION?

25 A. SO FOR EXAMPLE, I WILL EVEN USE IT IN -- WHEN WE

1 TALK ABOUT -- WHEN WE LOOK AT DEMENTIA PATIENTS. SO IF
2 A PATIENT HAD A HIGHER I.Q. OR THEY WENT HIGHER IN
3 EDUCATION, IT MAY BE THEY CAN -- IT'S HARD TO PICK UP
4 THAT THEY ARE HAVING SOME MEMORY LAPSES, IF -- BECAUSE
5 THEY CAN COMPENSATE MENTALLY BY HAVING A CONVERSATION TO
6 KIND OF THROW YOU OFF VERSUS SOMEONE WHO DOES NOT HAVE
7 THAT SAME EDUCATIONAL LEVEL, THEY MAY SHOW OR MANIFEST
8 MUCH EARLIER OR BE MORE APPARENT TO YOU THAT THEY ARE
9 SUFFERING MENTALLY.

10 THE COURT: OKAY. SINCE I ASKED -- THANK
11 YOU, BY THE WAY. SINCE I ASKED A NUMBER OF QUESTIONS,
12 IN SPIRIT OF FAIRNESS, I AM GOING TO ASK EACH OF THE
13 LAWYERS IF THEY HAVE ANY FOLLOWUP, SPECIFICALLY TO WHAT
14 I ASKED.

15 SO MS. MEW, I WILL START WITH YOU.

16 FURTHER CROSS-EXAMINATION

17 BY MS. MEW:

18 Q. YOU MENTIONED REFERENCE TO I.Q. DR. PULLINS, IS
19 IT HELPFUL TO HAVE AN ANALYSIS THAT SHOWS AN
20 INDIVIDUAL'S I.Q. AND PERHAPS ALSO THEIR ACADEMIC
21 SKILLS?

22 A. SO, FOR EXAMPLE, WE HAVE WHAT WE CALL A
23 NEUROPSYCHIATRY TESTING. SO IF A PATIENT COMES TO ME
24 AND THEY HAVING COGNITIVE CONCERNS, WE WILL SEND THEM TO
25 OUR NEUROPSYCHIATRY AND THEY WILL TAKE INTO ACCOUNT -- I

1 AM NOT SURE WHETHER THEIR I.Q. IS ACTUALLY TAKING THE
2 PLACE, BUT THEY DO DEFINITELY LOOK AT THE EDUCATION
3 LEVEL. BECAUSE, AGAIN, THESE ARE VALIDATED TOOLS AND
4 THEY HAVE A STANDARD THAT THEY USE -- THEY MEASURE THAT
5 AGAINST. I CAN'T SPEAK TO WHETHER HIS I.Q. IS LISTED ON
6 THAT.

7 MS. MEW: NO OTHER QUESTIONS.

8 THE COURT: DR. KITCHENS, DO YOU HAVE ANY
9 QUESTIONS SPECIFIC TO THE TOPICS THAT I RAISED IN MY
10 QUESTIONS?

11 DR. KITCHENS: NO, YOUR HONOR, I HAVE NO
12 FURTHER QUESTIONS.

13 THE COURT: OKAY.

14 DR. PULLINS, THANK YOU FOR YOUR TIME.
15 YOU ARE FREE TO BREAK OFF FROM THE VIDEO.

16 THE WITNESS: THANK YOU FOR YOUR TIME. I
17 APPRECIATE IT.

18 DR. KITCHENS: THANK YOU, DR. PULLINS.

19 MS. MEW: THANK YOU, DR. PULLINS.

20 THE WITNESS: THANK YOU.

21 THE COURT: ALL RIGHT, EVERYONE. UNLESS
22 THERE IS AN OBJECTION FROM THE GROUP, I THINK THIS IS A
23 GOOD TIME FOR A LUNCH BREAK. AND LET'S -- I AM JUST --
24 PERSONALLY I AM JUST GOING TO PUT ON THE MUTE AND THE
25 CAMERA OFF. YOU GUYS CAN DO WHAT YOU WOULD LIKE,

1 BECAUSE THIS MEETING SHOULD BE STABLE GOING FORWARD.

2 BUT IN ANY EVENT, WE WILL RESUME ABOUT
3 1:15 P.M., OKAY?

4 MS. MEW: DR. KITCHENS, DO YOU KNOW --
5 ANTICIPATE WHO YOU ARE PUTTING ON NEXT THIS AFTERNOON?

6 DR. KITCHENS: YES, MS. KING.

7 MS. MEW: AND AFTER THAT?

8 DR. KITCHENS: POSSIBLY JOANNE SENOGA.
9 YES, JOANNE SENOGA.

10 MS. MEW: THANK YOU.

11 THE COURT: THANK YOU, BOTH. SEE YOU AT
12 1:15.

13 (LUNCHEON RECESS TAKEN.)

14 (CLERK OPENS COURT.)

15 THE COURT: HELLO, MS. MEW.

16 MS. MEW: HELLO, YOUR HONOR.

17 THE COURT: HELLO, DR. KITCHENS.

18 DR. KITCHENS: HELLO, YOUR HONOR.

19 THE COURT: LYNN, ARE YOU WITH US?

20 THE COURT REPORTER: YES, JUDGE, I AM
21 HERE.

22 THE COURT: YES, DR. KITCHENS.

23 DR. KITCHENS: I JUST RECEIVED A CALL
24 THAT I HAVE TO SWITCH BETWEEN MS. KING, WHO WAS GOING TO
25 GO NEXT, TO DR. SENOGA, BECAUSE JUST FOR TIME SAKE.

1 AND THE LAST THING IS THAT BECAUSE OF THE
2 PERMISSION THAT MY WIFE WAS GIVEN TO JUST TO WORK THE
3 LOGISTICS SEEING HOW IT WENT LAST TIME, SHE IS -- SHE
4 LOGGED INTO HER OWN ACCOUNT, BUT SHE WILL STILL PULL UP
5 THE EXHIBITS. THAT WAY WE CAN FLOW -- VERSUS ON THE
6 COMPUTER, IT WAS CANCELLING OUT EVERYTHING OVER HERE, IF
7 THAT'S OKAY WITH YOU.

8 THE COURT: IT'S NOT A PROBLEM.

9 DR. KITCHENS: THANK YOU.

10 THE COURT: OKAY. WITH THAT SAID, THEN
11 WHY DON'T YOU CALL YOUR NEXT WITNESS.

12 DR. KITCHENS: OKAY. YOUR HONOR, I WOULD
13 LIKE TO CALL NEXT IS DR. JOANNE SENOGA.

14 THE COURT: DR. SENOGA.

15 THE WITNESS: YES, YOUR HONOR, SORRY, I
16 WAS TRYING TO FIGURE OUT EVERYTHING.

17 THE COURT: NO PROBLEM. WELCOME.

18 LYNN, WOULD YOU PLEASE SWEAR IN DR.
19 SENOGA?

20 THE COURT REPORTER: SURE.

21 DOCTOR, COULD YOU RAISE YOUR RIGHT HAND.

22 (PLAINTIFF WITNESS, DR. JOANNE SENOGA, IS
23 SWORN.)

24 THE COURT REPORTER: CAN YOU PLEASE STATE
25 AND SPELL YOUR NAME FOR THE RECORD?

1 THE WITNESS: JOANNE SENOGA, J-O-A-N-N-E,
2 LAST NAME S-E-N-O-G-A.

3 THE COURT: YOU MAY PROCEED, DR.
4 KITCHENS.

5 DR. KITCHENS: OKAY. THANK YOU, YOUR
6 HONOR.

7 DIRECT EXAMINATION

8 BY DR. KITCHENS:

9 Q. GOOD AFTERNOON, DR. SENOGA.

10 A. HI.

11 Q. THANK YOU FOR BEING HERE TODAY.

12 I WOULD LIKE TO FIRST SAY TO YOU THAT IF
13 FOR ANY REASON THAT I MAY GIVE YOU A QUESTION THAT YOU
14 MAY NOT NECESSARILY FULLY UNDERSTAND AND NEED MORE
15 CLARIFICATION, WILL YOU PLEASE LET ME KNOW THAT AND I
16 WILL REPHRASE IT?

17 A. ABSOLUTELY.

18 Q. SO DR. SENOGA, DID I ASK YOU TO REVIEW ANY
19 MATERIAL RELATED TO OUR CASE TODAY?

20 A. NO.

21 Q. THE MATERIAL THAT --

22 A. THE MATERIAL --

23 Q. YES.

24 A. MATERIAL, YES. YES.

25 Q. YES. SO THE -- OKAY, LET ME REPHRASE.

1 THE MATERIAL FOR THE LITIGATION OF THIS
2 CASE?

3 A. YES, YOU ASKED ME TO DO THIS, YES.

4 Q. THAT'S OKAY. JUST RELAX AND JUST BE FRANK,
5 OKAY?

6 A. OKAY.

7 Q. SO THE MATERIAL THAT WAS SENT OVER TO YOU, DID
8 YOU EVER REVIEW THAT MATERIAL?

9 A. YES, I DID.

10 Q. AND DR. SENOGA, ARE YOU BEING PAID FOR YOUR
11 TESTIMONY TODAY?

12 A. NO.

13 Q. HAVE YOU EVER TESTIFIED AS A MEDICAL EXPERT OR
14 AS AN EXPERT?

15 A. NO, THIS IS MY FIRST.

16 Q. OKAY. IS THERE ANY REASON TODAY THAT YOU WILL
17 NOT BE ABLE TO GIVE AN ACCURATE TESTIMONY TO THE BEST OF
18 YOUR ABILITY?

19 A. NO.

20 Q. JOANNE, CAN YOU -- DR. SENOGA, CAN YOU PLEASE
21 GIVE THE COURT AN OVERVIEW OF HOW YOU KNOW THE
22 PLAINTIFF, HOW YOU KNOW ME?

23 A. SURE. I KNOW YOU THROUGH -- WHEN YOU WERE
24 WORKING AT JACKSON PARK HOSPITAL. AND YOU WERE, I
25 GUESS, A COLLEAGUE AND A FRIEND, AND WE KNEW EACH OTHER

1 THROUGH -- ONLINE AND WE FINALLY MET, YOU KNOW, WHEN YOU
2 WERE WORKING AS A MEDICAL STUDENT AT JACKSON PARK
3 HOSPITAL.

4 Q. AND AT THAT TIME, WHAT WAS YOUR PHYSICIAN AT
5 JACKSON PARK?

6 A. I WAS AN INFECTIOUS CONTROL PRACTITIONER.

7 Q. DR. SENOGA, AS OF TODAY, CURRENTLY, ARE YOU
8 EMPLOYED?

9 A. I AM NOT CURRENTLY EMPLOYED.

10 Q. IS THERE ANY PARTICULAR REASON WHY?

11 A. I GOT RESIDENCY THE BEGINNING OF MAY, AND
12 FINALLY AFTER SO MANY YEARS, AND I AM PREPARING MYSELF
13 TO MOVE.

14 Q. GOT YOU.

15 MS. MEW: BEFORE YOU GO ON, DR. KITCHENS,
16 I'M SORRY.

17 YOUR HONOR, DO I NEED TO REASSERT MY
18 OBJECTIONS IN THE MOTION IN LIMINE THAT WE FILED OR CAN
19 THEY BE NOTED?

20 THE COURT: EVERYTHING IN THE MOTION IN
21 LIMINE IS PRESERVED AND NOTED, AND I THINK WE AGREED
22 THAT DR. KITCHENS WOULD ACTUALLY RESPOND TO IT IN
23 WRITING.

24 AND, OF COURSE, MS. MEW, YOU WILL BE
25 ENTITLED TO QUESTION THE WITNESS ON TOPICS THAT MAY BE

1 RELEVANT TO THAT MOTION IN LIMINE. ALL RIGHT?

2 MS. MEW: THANK YOU.

3 SORRY, DR. KITCHENS.

4 DR. KITCHENS: YOU ARE FINE, MS. MEW.

5 BY DR. KITCHENS:

6 Q. DR. SENOGA, HAVE YOU EVER AUTHORED OR
7 CO-AUTHORED ANY ARTICLES?

8 A. YES, I HAVE, ONE I CO-WROTE AND ANOTHER ONE
9 COMING OUT OF THE WAY, WHICH IS MY DISSERTATION ON
10 STRUCTURED RACISM, LIKE HIV PREP DISTRIBUTION IN THE
11 UNITED STATES.

12 THE COURT: DR. SENOGA, YOUR AUDIO, AT
13 LEAST FOR MY END, SOMETIMES IT CLIPS FOR A LITTLE BIT.
14 AND JUST FOR YOUR INFORMATION, ON THE THIS GROUP OF
15 PEOPLE WE HAVE LYNN, OUR COURT REPORTER, IS TRANSCRIBING
16 EVERYTHING THAT IS BEING SAID. SO PLEASE DO YOUR BEST
17 TO SPEAK SLOWLY AND CLEARLY WE WILL HELP THE RECORD.

18 THANK YOU.

19 THE WITNESS: OKAY, THANK YOU.

20 BY DR. KITCHENS:

21 Q. SO DR. SENOGA, YOU SAID THAT ABOUT THESE -- CAN
22 YOU GIVE A LITTLE BIT MORE DETAIL ON THOSE PARTICULAR
23 ARTICLES THAT YOU JUST MENTIONED?

24 A. YES. SO, FOR EXAMPLE, RIGHT NOW THE PH.D. IS A
25 DISSERTATION IS ON STRUCTURED RACISM, WHICH LOOKED AT

1 SOCIAL AND POLITICAL AND ECONOMIC DETERMINANTS OF HEALTH
2 AND HOW THERE IS A GAP IN WHAT FACTORS LEAD INTO THIS,
3 INCLUDING POLICIES THAT ARE IN THAT INSTITUTION.

4 Q. OKAY, THANK YOU.

5 AND ARE YOU A MEMBER OR PART OF ANY
6 PROFESSIONAL MEDICAL ASSOCIATIONS?

7 A. YES. THE AMERICAN MEDICAL ASSOCIATION, WHICH IS
8 -- IT DOES POLICY WORK TO D.C. IT'S LOCATED IN CHICAGO
9 WHERE I AM CURRENTLY LIVING, BUT IT ALSO LOOKS AT SOME
10 OF THE POLICIES THAT ARE IN PLACE, MOSTLY LIKE PRIOR
11 AUTHORIZATION, BUT ALSO MEDICAL STUDENT ISSUES, AS WELL.
12 BECAUSE I WAS THERE AS A MEDICAL STUDENT.

13 Q. ARE THERE ANY OTHER ORGANIZATIONS?

14 A. YES, AMERICAN PUBLIC HEALTH ASSOCIATION, COUNCIL
15 STEP TERRITORY OF EPIDEMIOLOGISTS, SOCIETY OF ACADEMIC
16 EMERGENCY MEDICINE.

17 Q. OKAY. THANK YOU, DR. SENOGA.

18 NOW, DR. SENOGA, IN ORDER FOR YOU TO
19 BECOME -- OR FOR YOU TO BE AN EXPERT WITNESS, THE
20 WITNESS MUST HAVE SCIENTIFIC, TECHNOLOGICAL OR OTHER
21 SPECIALIZED KNOWLEDGE TO HELP UNDERSTAND THE EVIDENCE OR
22 DETERMINE A FACT AT ISSUE.

23 DO YOU HAVE ANY SCIENTIFIC OR
24 TECHNOLOGICAL OR SPECIALIZED KNOWLEDGE RELATING TO THE
25 SIGNIFICANCE OF THE USMLE?

1 A. YES, I DO. I FIND MYSELF TO GET -- SO I DO HAVE
2 KNOWLEDGE IN TERMS OF LIKE DISABILITY, BUT ALSO THE
3 STATISTICS BEHIND IT. BECAUSE I ALSO WENT THROUGH ALL
4 OF THAT.

5 Q. AND CAN YOU ELABORATE A LITTLE BIT MORE ON THAT,
6 ON THAT SUBJECT, PLEASE?

7 A. SURE. SO I FAILED STEP 2, TWO TIMES. AND ONE
8 OF THEM WAS STEP 2 CS, WHICH WAS ELIMINATED IN 2020
9 RIGHT AFTER I HAD FAILED IT. AND I ALSO FAILED STEP 3
10 ONCE AND PASSED IT ON THE FINAL ATTEMPT. AND AS A
11 RESULT, EVEN IF I HAD, STEP 2 CS WAS ELIMINATED AND IT
12 HAS EFFECTED ME.

13 Q. AND I'M GOING TO GET THERE IN A LITTLE BIT -- A
14 LITTLE BIT LATER ON THAT PARTICULAR SUBJECT. I WANT TO
15 MAKE SURE THAT I GIVE THE COURT AS MUCH INFORMATION
16 BEFORE I ASK THE COURT TO TENDER YOU AS AN EXPERT, OKAY?
17 SO I AM JUST LETTING YOU KNOW THERE.

18 SO BASED ON YOUR OWN WORDS, WHAT IS YOUR
19 TESTIMONY -- WHAT IS YOUR TESTIMONY TODAY BASED UPON?

20 A. MY TESTIMONY IS HOW HAVING A FAILED TRANSCRIPT
21 CAN EFFECT YOU IN THE FUTURE, WHICH I CAN EXPLORE
22 FURTHER WHEN YOU ASK ME QUESTIONS. BUT IN ADDITION TO
23 THAT, KIND OF STRESSING HOW THERE IS INEQUALITY IN THIS,
24 IN HOW IT'S KIND OF NOT TRANSPARENT AND FAIR PROCESS FOR
25 AFRICAN AMERICAN STUDENTS.

1 Q. AND HAVE YOU BEEN THROUGH THE MATCH PROCESS?

2 A. YES.

3 Q. AND HOW MANY TIMES HAVE YOU BEEN THROUGH THE
4 MATCH PROCESS?

5 A. THREE TIMES.

6 Q. AND FOR THE RECORD, THE MATCH PROCESS IS A
7 CHANNEL THAT WE MUST GO THROUGH, ALL OF THE RESIDENTS OR
8 FUTURE RESIDENTS, IN ORDER TO MATCH INTO DIFFERENT
9 PROGRAMS?

10 A. TO GET A JOB.

11 Q. YES.

12 SO DR. SENOGA, FROM YOUR EXPERIENCE AND
13 OF GOING THROUGH THE MATCH, AS YOU SAID THREE TIMES, IS
14 THIS SOMETHING COMMON FOR STUDENTS OF CERTAIN DECENT?

15 A. ABSOLUTELY. SO WE EVEN HAVE LIKE A GROUP
16 CORRELATION OF UNMATCHED APPLICANTS. IN FACT, I WAS
17 KIND OF TALKING TO ONE OF THEM, AND IT'S VERY -- AT A
18 HIGH PERCENTAGE THAT I KNOW FOR SURE THAT GO UNMATCHED
19 EACH YEAR, OR HAVE WHAT WE CALL RED FLAGS, SUCH AS
20 ATTEMPTED QUESTIONS OF FAILED EXAMS.

21 Q. SO CAN YOU -- FOR THE COURT, FOR THE RECORD, CAN
22 YOU EXPLAIN A LITTLE BIT MORE ABOUT THE RED FLAG?

23 A. SO THE RED FLAGS -- SO THE USMLE SCORE, IF THERE
24 IS LIKE A GRADED -- THERE IS A GRADE THAT PROGRAM
25 DIRECTORS USE. SO IF YOU DO HAVE FAILED SCORES OR YOU

1 HAVE MAYBE A TRANSCRIPT, YOU KNOW, PERCENTILE. IN
2 ADDITION TO THAT THEY LOOK AT LETTERS OF RECOMMENDATION,
3 WHICH CAN ALSO DEPEND ON ACCESS TO THE PHYSICIANS YOU
4 GET. BUT IN ADDITION TO THAT, THOSE ARE THE THREE MAIN
5 FACTORS THAT THEY CHOSE FROM TO LOOK AT A CANDIDATE.

6 Q. OKAY. AND DOES THE MATCH PROCESS CHANGE EVERY
7 YEAR?

8 A. A FEW THINGS DO CHANGE. YOU KNOW, SUCH AS LIKE
9 STEP 2 CS WAS ELIMINATED IN 2020, AND THEREFORE THAT WAS
10 A RESULT OF REMOVING IT. BUT IF YOU DID HAVE A FAIL,
11 THAT WAS NEVER GOING TO BE RECTIFIED THAT YOU PASS. SO
12 THEY DID ANOTHER PATHWAY TO FINISH THIS, WHICH WAS
13 SOMETHING WE CALLED OET, I GUESS IT'S THE -- I FORGET
14 THE EXACT ACRONYM, I APOLOGIZE.

15 Q. THANK YOU, DR. SENOGA. DUE TO THE ACCENTS, WE
16 WILL SLOW IT DOWN A LITTLE BIT.

17 A. THANK YOU. THANK YOU.

18 Q. YOUR AFRICAN DECENT IS SHOWING HERE.

19 A. I AM UGANDAN, YES.

20 Q. THAT'S OKAY. THAT'S ALL RIGHT.

21 SO YOU WERE TALKING ABOUT THE RED FLAG
22 AND DIFFERENT TYPES OF GROUPS THAT YOU ARE A PART OF,
23 PEOPLE THAT HAS BEEN, QUOTE, UNQUOTE, RED FLAGGED?

24 A. YES.

25 Q. IN THESE GROUPS, HOW MANY PEOPLE WOULD YOU SAY

1 ARE IN THESE PARTICULAR GROUPS?

2 A. FOR EXAMPLE, IN THIS -- WHAT IS A CHAT GROUP
3 THAT I AM PART OF, IT IS MAYBE 200, I WOULD SAY.

4 Q. IS THAT THE ONLY GROUP?

5 A. AND A COUPLE THERE IS HERE IN CHICAGO, THERE IS
6 -- IT'S CALLED CHAMPS, C-H-A-M-P-S, AND IT'S AN OLD
7 ORGANIZATION THAT WAS CREATED SINCE 1979. AND IT HELPS
8 BLACK MEDICAL STUDENTS GET INTO -- NOT ONLY GET INTO
9 RESIDENTS BUT ALSO GET INTO MEDICAL SCHOOL. SO THEY GO
10 ALL THE WAY FROM THE MCAT.

11 Q. AS AN AFRICAN AMERICAN, WHY DO YOU FEEL THAT
12 THIS PROGRAM EVEN EXISTS, THIS CHAMPS?

13 A. SO THIS PROGRAM EXISTS BECAUSE OF -- SO THERE IS
14 POLICIES IN PLACE THAT EVEN IF THERE WERE KIND OF RULED
15 OVER, THERE ARE WAYS, SO SUCH AS, I GUESS -- I CAN'T --
16 LIKE REDLINING, RIGHT, WHICH REDLINING WOULD LEAD TO
17 HAVING POOR ACCESS TO SCHOOLS, RIGHT. SO YOU DON'T GET
18 AN OPPORTUNITY TO GET ACCESS TO MATERIALS, SO IT IS AN
19 ACCESS ISSUE. AND YET, THAT PROGRAM IS UNDERFUNDED OR
20 NOT EVEN RECOGNIZED AND IS THE ONLY PROGRAM THAT WE DO
21 HAVE HERE IN THE CHICAGO AREA.

22 Q. IN YOUR OPINION, DOES YOUR REPEATED EXPERIENCE
23 OF THE MATCH PROCESS OF GOING THROUGH THE MATCH PROCESS
24 PROVIDE YOU SIGNIFICANT DATA TO TESTIFY TODAY?

25 A. YES, IT DOES.

1 Q. AND HOW ARE YOU APPLYING THE KNOWLEDGE AND
2 INFORMATION YOU PERSONALLY GATHERED TO THE FACTS ON THIS
3 PARTICULAR CASE?

4 A. SO AS A PART OF A.M.A. THESE ARE THE ISSUES I DO
5 FIGHT ABOUT AS WELL AND MOVING FORWARD, I DO WANT TO --
6 I DO WANT, YOU KNOW, THIS TO ADVANCE, WHICH SOME OF THEM
7 ARE VERY NOT NECESSARILY DETERMINING OF YOU BECOMING A
8 DOCTOR, BUT LOOK AT A GOOD DOCTOR, BUT THEY KIND OF
9 REMOVE ACCESS OR THEY JUST CREATE BARRIERS TO ETHNIC
10 MINORITY GROUPS.

11 Q. YOU TALKED ABOUT ACCESS OR TEST SCORES AND
12 CORRELATION TO HOW YOU WOULD PERFORM AS AS A PHYSICIAN.

13 CAN YOU ELABORATE MORE ON THAT, PLEASE,
14 FOR THE COURT?

15 A. SO THERE IS AVERAGE SCORES THAT, FOR EXAMPLE,
16 LET'S SAY I DID HAVE A SCORE OF 230. BUT THE MEAN SCORE
17 ENTRANCE WOULD BE 245 FOR MOST PROGRAMS. SO IN ITSELF
18 THERE, DURING WHAT WE CALL ELECTRONIC RESIDENCY ACCESS
19 PROGRAM, AS A RESULT THAT YOU ARE FILTERED OUT BY
20 PROGRAMS AS A RESULT.

21 Q. AND --

22 A. BASED ON THE SCORE.

23 MS. MEW: YOUR HONOR, I AM SO SORRY, AND
24 I APOLOGIZE, DR. SENOGA, I AM NOT CLEAR HOW THIS IS --
25 AM I GOING -- SORRY WILL DR. SENOGA BE TENDERED AS AN

1 EXPERT AND THEN -- BECAUSE NOW THAT WE ARE GETTING
2 TESTIMONY, ARE WE RESERVING THE ISSUE, AND SHOULD I ALSO
3 BE RAISING MY OBJECTIONS TO RELEVANCY AS WE GO? I GUESS
4 I AM NOT CLEAR WHAT I SHOULD BE DOING TO PRESERVE THE
5 RECORD.

6 I APOLOGIZE, DR. KITCHENS, FOR THE
7 INTERRUPTION.

8 THE COURT: FAIR ENOUGH. I WAS WONDERING
9 IF THERE WAS GOING TO BE A TENDER AND WHAT IT WOULD BE.

10 ARE YOU HEADED THAT WAY, DR. KITCHENS?

11 DR. KITCHENS: YES, SIR. I AM TRYING TO
12 BUILD MY CASE FOR THE RULE 702.

13 THE COURT: OKAY. CONTINUE, BUT HEAD IN
14 THAT DIRECTION.

15 DR. KITCHENS: YES, SIR, THANK YOU SO
16 MUCH. I'M SORRY, YES, JUDGE.

17 BY DR. KITCHENS:

18 Q. DR. SENOGA, HAVE YOU REVIEWED ANY PUBLICATIONS
19 OR ARTICLES FOR PREPARING FOR TODAY'S TESTIMONY?

20 A. ABSOLUTELY. SO AS AN EPIDEMIOLOGIST, THAT'S
21 KIND OF -- YOU KIND OF LOOK AT STATISTICS, RIGHT. SO
22 THAT IS IN ITSELF WHAT IS CREDIBLE, BECAUSE IT'S BEEN
23 STUDIED FOR YEARS. BUT ALSO -- SORRY, I KIND OF LOST
24 TRACK.

25 Q. THAT'S OKAY. TAKE YOUR TIME.

1 A. YES. BUT, YES, I GUESS THE CASE IS MORE ACCESS
2 ISSUE.

3 Q. HERE I WOULD LIKE TO PULL UP EXHIBIT NUMBER 88,
4 WHICH IS A SCIENTIFIC DOCUMENT. THIS DOCUMENT, YES,
5 EXHIBIT PX84. CAN YOU ZOOM IN ON THIS DOCUMENT, PLEASE,
6 SO THAT WE CAN HAVE SOME WORDS?

7 CAN YOU TELL ME, DR. SENOGA, DO YOU
8 RECOGNIZE THIS DOCUMENT?

9 A. YES, I DO.

10 Q. IS THIS A DOCUMENT THAT YOU SENT TO ME AFTER YOU
11 AGREED TO TESTIFY?

12 A. YES, BECAUSE I THOUGHT THIS WAS RELEVANT,
13 BECAUSE IT'S THE SUBJECT HAS ALREADY BEEN SHINE LIGHT ON
14 ALREADY.

15 Q. OKAY. AND CAN YOU GIVE, IN YOUR OWN WORDS, SO
16 THERE IS A PASSAGE HERE UNDER METHODS.

17 DO YOU SEE METHODS THERE, DR. SENOGA?

18 A. YES.

19 MS. MEW: YOUR HONOR, I OBJECT. THIS IS
20 HEARSAY, AND WE STILL HAVE NOT GOTTEN TO THE TENDER
21 PART.

22 THE COURT: MS. MEW, I HEAR YOU, I THINK
23 BOTH OF THOSE THINGS ARE TRUE, BUT NO ONE HAS TRIED TO
24 ADMIT THIS PX84, AND YET I THINK HOPEFULLY WE ARE HEADED
25 TO THE TENDER.

1 SO GO AHEAD, DR. KITCHENS.

2 BY DR. KITCHENS:

3 Q. DR. SENOGA, CAN YOU READ -- IN YOUR OWN WORDS,
4 CAN YOU READ TO THE COURT THE PARAGRAPH RIGHT UNDER
5 METHODS, PLEASE?

6 A. THE AUTHORS INVESTIGATING THE RIGHT OF
7 ACCOMMODATION DENIAL AND EVALUATED WITH A STEP 1
8 ACCOMMODATION DENIES IN IMPACT MEDICAL SCHOOL OPERATION.
9 SO THIS WAS A SURVEY TO MEDICAL STUDENTS. AND THEY ALSO
10 USED DEANS AS WELL AND THIS ABILITY RESOURCE
11 PROFESSIONAL IS FULLY ACCREDITED IN THE U.S. IN THE
12 GRANTING PROGRAMS.

13 Q. WITH YOUR BACKGROUND AND IN ALSO EPIDEMIOLOGY
14 AND SIGNIFICANT RESEARCH DONE, ARE THE METHODS
15 IDENTIFIED USING -- USED THIS ARTICLE RECOGNIZED AS A
16 RELIABLE PRINCIPAL AND METHODS IN THE SCIENCE AND
17 MEDICAL COMMUNITY?

18 A. YES, ABSOLUTELY. SO THEY DID USE A QUALITATIVE
19 APPROACH HERE, WHICH IS THE ONE PERCENT VOICES, IT IS
20 BETTER THAN THE QUANTITATIVE IN THAT REGARD, BECAUSE IT
21 DOES CLEAR -- OR IT GIVES MORE KNOWLEDGE IN THE SUBJECT
22 MATTER.

23 Q. AND LASTLY BEFORE I TENDER YOU, BASED ON WHAT
24 YOU HAVE --

25 DR. KITCHENS: AND, YOUR HONOR, I WOULD

1 LIKE TO ADD THIS DOCUMENT INTO THE RECORD AS EXHIBIT 84?

2 MS. MEW: OBJECTION, YOUR HONOR, IT'S
3 HEARSAY. THIS IS ALSO A DOCUMENT THAT WAS NOT PROVIDED
4 TO US UNTIL SATURDAY MORNING. IN ADDITION TO THAT LATE
5 DISCLOSURE, I THINK IT CHANGES THE NATURE OF DR.
6 SENOGA'S PREVIOUSLY DISCLOSED TESTIMONY. SO THERE HAS
7 NOT BEEN AN ADEQUATE TIME TO MEET ANY EVIDENCE COMING
8 FROM THIS ARTICLE.

9 THE COURT: WELL, THE WEIGHT OR THE
10 STRENGTH OF THAT OBJECTION IS GOING TO DEPEND A LITTLE
11 BIT ON HOW THE TESTIMONY COMES IN AND I HAVE THE LUXURY
12 OF HEARING ALL OF THAT FIRST. SO I THINK I'M GOING TO
13 DO THAT.

14 WITH RESPECT TO THE QUESTION OF
15 ADMISSIBILITY ALONE, I AM GOING TO ADMIT IT. YOU KNOW,
16 IT APPEARS TO ME TO BE A PERIODICAL THAT IS BEING RELIED
17 UPON BY AN EXPERT IN THE COURSE OF THE WORK. THAT SAID,
18 THERE ARE QUESTIONS THAT HAVE BEEN RAISED ABOUT THE
19 APPROPRIATENESS OF THE EXPERT TESTIMONY AND SO FORTH,
20 AND THOSE ARE FINE, WE WILL DEAL WITH THAT LATER.

21 BUT FOR NOW, I AM GOING TO ADMIT PX84,
22 AND WE WILL SEE WHERE WE GO FROM HERE.

23 (PLAINTIFF EXHIBIT 84 IS ADMITTED INTO
24 EVIDENCE.)

25 DR. KITCHENS: YOUR HONOR, AT THIS TIME I

1 WOULD LIKE TO TENDER DR. JOANNE SENOGA AS AN EXPERT IN
2 EXPUNGEMENT -- EXCUSE ME, BEFORE THEN.

3 BY DR. KITCHENS:

4 Q. DR. SENOGA, THE QUESTION I WAS MEANING TO ASK
5 YOU. BASED ON WHAT YOU JUST TESTIFIED ABOUT THE QUALITY
6 OF THE ARTICLE PROVIDED ABOVE THAT YOU REVIEWED, WERE
7 YOU ABLE TO FORM AN OPINION AS TO MY EXAMINATION
8 TRANSCRIPT?

9 A. ABSOLUTELY. SO IT'S NOT JUST YOUR CASE, IT'S
10 OTHER ETHNIC MINORITY GROUPS WHO ARE FACING YOUR
11 SITUATION. AND THERE IS NO TRANSPARENCY IN THIS
12 SITUATION, NO MATTER HOW MANY THINGS WE WRITE, IT HOLDS
13 IN WEIGHT FOR SOME REASON. AND SO IT IS -- THAT'S WHY I
14 SENT THAT TO YOU, BECAUSE IT HAS ALREADY BEEN
15 HIGHLIGHTED.

16 AND AS A RESULT OF THAT, THEY DID MAKE
17 STEP 1 PASS OR FAIL, SO THINGS DO CHANGE. SO BECAUSE
18 STEP 1 WAS BEING HEAVILY WEIGHED BY PROGRAM DIRECTORS AS
19 A DECIDING FACTOR AS TO WHO GETS A JOB AND WHO DOES NOT.

20 Q. THANK YOU, JOANNE -- DR. SENOGA.

21 DR. KITCHENS: YOUR HONOR, AT THIS TIME I
22 WOULD LIKE TO TENDER DR. SENOGA AS AN EXPERT IN
23 EXPUNGEMENT AND IN NECESSITY.

24 THE COURT: MS. MEW, LET'S TAKE ALL OF
25 THE OBJECTIONS YOU HAVE MADE ALREADY AND THE ONES THAT

1 ARE ON THE RECORD IN WRITING, DO YOU HAVE -- BUT I WILL
2 ALSO GIVE YOU THE OPPORTUNITY, IS THERE ANYTHING THAT
3 YOU WANT TO ADD TO THAT AT THIS TIME?

4 MS. MEW: YES, SO --

5 DR. KITCHENS: ONE SECOND.

6 MS. MEW: WE REITERATE THE PRIOR
7 OBJECTIONS, YOUR HONOR. AND I EMPHASIS ALSO AT THIS
8 POINT THAT I REALIZE IT'S A BENCH TRIAL, BUT IT'S NOT
9 JUST RELEVANCY BUT IT ALSO GOES TO SORT OF UNDUE
10 PREJUDICE AND A WAIST OF TIME. AND AGAIN, THE LATE --
11 THIS WAS A LATE DISCLOSED WITNESS, AND THIS IS NEW
12 TESTIMONY THAT IS CONTINUING TO EVOLVE. SO AS YOU KNOW
13 FROM OUR SUBMISSION, WE DON'T THINK THAT THIS TOPIC AT
14 LARGE IS RELEVANT TO THE ISSUES IN THE CASE.

15 WE ALSO DO NOT SEE, RESPECTFULLY, DR.
16 SENOGA'S QUALIFICATIONS IN THIS ISSUE. IT SOUNDS LIKE
17 SHE IS SPEAKING TO ANECDOTAL INFORMATION FROM
18 PARTICIPATING IN WEBSITE CHATS AND ALSO FROM SORT OF
19 READING THINGS JUST IN CONNECTION WITH THIS LAWSUIT.

20 SO FOR THE PREVIOUSLY STATED REASONS AND
21 ALL OF THOSE REASONS, WE REASSERT OUR OBJECTION TO THE
22 TESTIMONY.

23 THE COURT: AS I HAD MENTIONED BEFORE, I
24 THINK THE STRENGTH OF THOSE OBJECTIONS DEPENDS ON WHAT
25 EXACTLY THE TESTIMONY ENDS UP GETTING USED FOR. AND

1 SINCE IT IS A BENCH TRIAL, I DON'T HAVE TO FULLY EXPLORE
2 THAT AT THIS POINT, AND SO I'M NOT GOING TO -- WE ARE
3 ALL ASSEMBLED TO HAVE THE WITNESS HERE, SO I AM GOING TO
4 HEAR THE REST OF THE TESTIMONY. IN OTHER WORDS, I AM
5 GOING TO ALLOW THE REST OF THE TESTIMONY. I AM NOT
6 GOING TO RULE AT THIS POINT AS TO WHETHER THE EVIDENCE
7 IS FULLY QUALIFIED UNDER RULE 702, BECAUSE WE HAVE GOT
8 AN M.I.L. THAT I AM GOING TO LEAVE THERE, GIVE A CHANCE
9 FOR ALL OF THIS TESTIMONY TO COME IN AND TO HAVE DR.
10 KITCHENS RESPOND TO THAT ONCE THAT IS OVER. I AM GOING
11 TO LEAVE IT AT THAT FOR NOW AND WE WILL HEAR THE REST OF
12 THE TESTIMONY. BECAUSE IT'S GOING TO HELP ME TO HEAR
13 BOTH THE DIRECT AND THE CROSS.

14 MS. MEW: I JUST WANT TO ASK, SO THAT I
15 CAN HOPEFULLY NOT HAVE TO OBJECT SO MUCH.

16 DO I UNDERSTAND THAT MY OBJECTION IS
17 STANDING THROUGH THIS, AND I JUST WOULD NEED TO OBJECT
18 TO INDIVIDUAL QUESTIONS THAT ARE MORE OF A FORM OR
19 FOUNDATIONAL ISSUE?

20 THE COURT: ABSOLUTELY, YES, ALTHOUGH
21 FOUNDATION PERHAPS, I WOULD NOT OVERLY ENCOURAGE FORM
22 OBJECTIONS. BUT GO AHEAD.

23 MS. MEW: I UNDERSTAND.

24 DR. KITCHENS: YOUR HONOR, I WOULD ALSO
25 LIKE TO BRING TO ATTENTION EVEN UNDER THIS RULE --

1 FEDERAL RULE UNDER 702, BUT TO ALSO LOOK AT ADDITIONALLY
2 UNDER 704, BECAUSE DR. SENOGA'S OPINION ITSELF IS NOT
3 JUST OBJECTIONABLE. SHE HAS HAD THIS EXPERIENCE THAT
4 MOST PEOPLE HAVE NOT -- WOULD NOT HAVE HAD EXPERIENCED
5 IN THE GENERAL POPULATION AND SHE HAS MORE KNOWLEDGE
6 UPON IT THAN EVEN I WOULD.

7 THE COURT: DR. KITCHENS, I AM GOING TO
8 GIVE YOU THE LEEWAY TO TRY THE CASE THE WAY YOU WOULD
9 LIKE HERE WITHIN REASON, AS LONG AS WE KEEP MOVING
10 FORWARD IN A STEADY FASHION HERE TIME-WISE, OKAY?

11 DR. KITCHENS: YES, SIR.

12 BY DR. KITCHENS:

13 Q. DR. SENOGA, WHEN DID YOU GRADUATE FROM MEDICAL
14 SCHOOL?

15 A. 2021.

16 Q. 2021.

17 AND DURING YOUR TENURE IN MEDICAL SCHOOL,
18 DID YOU TAKE STEP 1 DURING SCHOOL -- OR WHEN DID YOU
19 TAKE IT?

20 A. DURING SCHOOL, BECAUSE MY SCHOOL REQUIRES YOU IN
21 ORDER TO GRADUATE TO HAVE STEP 1 AND STEP 2 PASS.

22 Q. JUST FOR CLARIFICATION, HOW DOES YOUR SCHOOL
23 WEIGH IN THE USMLE STEP 1 EXAMINATION?

24 A. I KNOW TO ACTUALLY DO CLINICAL ROTATIONS YOU
25 HAVE TO HAVE PASSED STEP 1. SO SOME PEOPLE KIND OF STAY

1 OR WEIGHTED OUT IN THIS PROCESS BECAUSE THEY CANNOT PASS
2 STEP 1.

3 Q. AND IF THEY CANNOT PASS STEP 1, WHAT TYPE OF
4 REPERCUSSIONS ARE THERE?

5 A. IT MEANS ALL YOU HAVE WORKED FOR IS KIND OF LIKE
6 A GAMBLE, THAT YOU ARE NOW GOING TO BECOME A PHYSICIAN.

7 Q. CAN YOU ELABORATE MORE ON THAT? YOU SAID IT'S
8 LIKE A GAMBLE?

9 A. A GAMBLE IS LIKE TAKING A CHANCE AND TO
10 SOMETHING, IT'S A HIGHER RISK, RIGHT. SO MEANING YOU
11 WOULD HAVE GONE TO MEDICAL SCHOOL IN VAIN BECAUSE YOU
12 ARE NOW GOING TO GRADUATE AND THEREFORE BECOME A
13 PHYSICIAN IN THE END.

14 Q. DR. SENOGA, WHEN YOU WERE IN MEDICAL SCHOOL, DID
15 YOU TAKE -- DID YOU APPLY FOR ANY SCHOOL LOANS?

16 A. I DID, OBVIOUSLY, YES.

17 Q. YES. OKAY.

18 AND YOU SAID THAT IT'S A GAMBLE. IF A
19 PERSON DOES NOT PASS SUCH IMPORTANT EXAMS SUCH AS THE
20 STEP 1 EXAMINATION, THAT IS A GAMBLE, WHAT WOULD BE YOUR
21 EXPERIENCE OR YOUR IMPACT OF PEOPLE WHO ARE TAKING THAT
22 GAMBLE AND FAIL?

23 A. RIGHT. SO YOU ARE PROBABLY LIKE IN 300,000 DEBT
24 WITH NO JOB. AND THE ONLY WAY TO EVEN MOVE FORWARD IN
25 THIS PROCESS IS TO BE A PHYSICIAN, BECAUSE THAT IS THE

1 ONLY JOB THAT WOULD PAY THOSE KIND OF LOANS. AND
2 DEFAULTING ON STUDENTS LOANS, THAT'S A FEDERAL CRIME.

3 Q. YES. AND IN YOUR EXPERIENCE, DO YOU HAVE ANY
4 EXPERIENCE IN THIS PARTICULAR PROCESS HERE?

5 A. YES. SO RIGHT NOW MY LOANS ARE IN FORBEARANCE
6 SO -- BUT ONCE I START MED SCHOOL, I WILL START PAYING
7 ON THEM. BUT IF I DID NOT HAVE THIS, I DON'T KNOW HOW I
8 WOULD HAVE PAID THIS OFF.

9 Q. OKAY. AND THEN SO TO THE BEST OF YOUR MEMORY OR
10 RECOLLECTION, WHEN DID YOU FIRST REGISTER FOR THE STEP 1
11 EXAMINATION?

12 A. OCTOBER 2017.

13 Q. 2017.

14 AND DID YOU APPLY FOR ACCOMMODATIONS?

15 A. I DID, BUT I DID IN -- AFTER STEP 2, AFTER I
16 FAILED STEP 2.

17 Q. AND WHY DID YOU APPLY FOR THOSE ACCOMMODATIONS?

18 A. BECAUSE I HAD FAILED STEP 2, AND I KNEW THAT
19 ONCE I HAD ONE FAILURE, THAT THAT WOULD BRING UP MAJOR
20 IMPACT AND I DID NOT WANT TO FAIL AGAIN, SO I APPLIED
21 FOR IT.

22 Q. YES. AND DID YOU HAVE ANY DIAGNOSIS OF A
23 PARTICULAR DISABILITY THAT WOULD ALLOW YOU TO BE EVEN
24 ELIGIBLE UNDER THE ADA FOR ACCOMMODATIONS?

25 A. YES, ADHD.

1 Q. ADHD. AND WHEN WERE YOU -- HOW LONG AGO, JUST
2 ROUGHLY, DIAGNOSED?

3 A. SO I WAS DIAGNOSED IN ADULTHOOD BECAUSE OF
4 CULTURAL FACTORS THAT COME INTO IT, WHERE MY CULTURAL
5 THEY DON'T BELIEVE ADHD IS A THING, RIGHT. SO IT WAS
6 REALLY HARD FOR ME TO -- FOR MY ANCESTORS AS WELL TO SAY
7 THAT I NEEDED HELP. SO I KIND OF WENT ALONG THROUGH MED
8 SCHOOL THOSE FIRST TWO YEARS WITHOUT ANY KIND OF OPEN --
9 LOOKING BACK I DON'T KNOW HOW I DID IT, BUT SOMEHOW I
10 DID IT. BUT YES, ADHD IS A DISABILITY.

11 Q. AND YOU MENTIONED SOMETHING THAT IS -- YOU
12 MENTIONED ABOUT BEING A CULTURAL DISCONNECT THERE WITH
13 ADHD.

14 CAN YOU EXPLAIN A LITTLE BIT MORE ABOUT
15 THAT?

16 A. YES. SO MY FAMILY DOES NOT EVEN BELIEVE I
17 SHOULD BE, YOU KNOW, GETTING ANY KIND OF MEDICAL HELP,
18 OR THEY DON'T BELIEVE I DO -- THEY DON'T BELIEVE THERE
19 IS A DISEASE CALLED ADHD, SO IT'S A CULTURAL
20 INACCEPTANCE THAT THERE ARE CERTAIN THINGS THAT YOU
21 DON'T -- YOU ARE NOT ALLOWED TO HAVE.

22 Q. AND SO WHEN YOU SAY CULTURAL, ARE YOU -- WOULD I
23 BE IN THE BALLPARK TO SAY THAT THIS IS A WELL-KNOWN
24 FACT?

25 A. YES, IT IS, ACTUALLY.

1 Q. OKAY. I JUST WANT TO MAKE SURE I UNDERSTOOD
2 WHAT YOU WERE SAYING THERE.

3 DR. SENOGA, HAVE YOU COMPLETED ALL THREE
4 STEP EXAMINATIONS?

5 A. YES, I HAVE.

6 Q. AND YOU MENTIONED EARLIER ABOUT YOUR -- THAT YOU
7 FAILED CERTAIN EXAMS.

8 CAN YOU REITERATE FOR THE RECORD WHAT
9 THAT -- YOUR PROCESS?

10 A. YES. SO I FAILED STEP 2 TWO TIMES AND STEP 3
11 ONCE. AND DESPITE HAVING STEP 2 CS REMOVED AS A
12 NATIONAL EXAM, THIS HAS BEEN SHOWING IN MY TRANSCRIPT,
13 WHICH HAS LED TO CERTAIN PROGRAMS NOT BEING ABLE TO USE
14 ME, TO ACCEPT ME AS AN APPLICANT BECAUSE THE SECOND STEP
15 -- LIKE WHERE I AM LOCATED IN CHICAGO, ILLINOIS, YOU ARE
16 ONLY ALLOWED FIVE ATTEMPTS AND FIVE ATTEMPTS MEANS ALL
17 STEP 1, 2, 3 YOU PASS IT ONCE AND I HAVE OBVIOUSLY NOT
18 PASSED IT ONCE, SO I COULD NOT BE ADMITTED INTO THAT
19 ILLINOIS PROGRAM.

20 Q. SO YOU SAID THAT YOU WOULD NOT BE ABLE TO BE
21 ADMITTED. LET ME BACK UP FIRST FOR A SECOND, AND THANK
22 YOU, DR. SENOGA.

23 ONE THING THAT I WOULD SAY HERE IS YOU
24 STATED ABOUT THESE STEP 2 CS?

25 A. YES.

1 Q. THIS IS A RETIRED EXAM?

2 A. IT IS A RETIRED EXAM, AND YET IT IS STILL ON MY
3 TRANSCRIPT.

4 Q. CAN IT BE REMOVED FROM YOUR TRANSCRIPT?

5 A. NO. WE HAVE APPEALED IT -- AND WE HAVE APPEALED
6 IT, AND IT WAS NOT.

7 Q. SO YOUR APPEAL WAS DENIED?

8 A. YES.

9 Q. ON AN EXAM THAT IS RETIRED?

10 A. MM-HMM.

11 Q. CAN YOU RETAKE THAT EXAM AT ANY POINT TO RECTIFY
12 THAT FAIL?

13 A. NO, YOU CANNOT.

14 Q. OKAY. AND SO HOW DOES THAT FAILED EXAM AND ONE
15 THAT YOU CANNOT RECTIFY MAKE YOU FEEL?

16 A. IT IS UNFAIR, OBVIOUSLY. AND IN MY OPINION, IT
17 WAS A VERY SUBJECTIVE EXAM AND MOST ETHNIC MINORITY
18 GROUPS FAILED, ACTUALLY, THAT IS A TRUE STATISTIC. AND
19 IN ADDITION TO THAT, IT WAS REMOVED AND YET IT WAS HELD
20 AGAINST ME, SO.

21 Q. AND YOU MADE A STATEMENT EARLIER ABOUT THE --
22 AND I REALLY WANT TO LEAN IN ON THIS PARTICULAR
23 STATEMENT OR QUESTION TO YOU ABOUT THE RESIDENCY
24 PROGRAMS AND SEEING THESE PARTICULAR FAILED EXAMS WHICH
25 EVEN YOU SAID FOR THE STEP 2 CS IS A FAILED ATTEMPT THAT

1 YOU CANNOT RECTIFY OR HAVE REMOVED OFF OF YOUR
2 TRANSCRIPT, WHAT TYPE OF IMPACT DOES THAT HAVE
3 SPECIFICALLY?

4 A. YES, IT DEPENDS. THAT CAN BE A DECIDING FACTOR
5 IF -- AS TO GETTING INTO A PROGRAM OR NOT GOING INTO A
6 PROGRAM, TO PRACTICE IN A STATE AS OPPOSED TO NOT
7 PRACTICING IN A STATE. SO IT'S A DETERMINING FACTOR.

8 Q. AND DR. SENOGA, YOU SAID YOU GRADUATED THREE
9 YEARS AGO?

10 A. NO, 2021.

11 Q. 2021. OKAY. SORRY.

12 GO AHEAD.

13 A. NO, NO, NO, I WAS WAITING FOR YOU, SORRY.

14 Q. GOT YOU.

15 SO DR. SENOGA, YOU GRADUATED IN 2021.

16 WHY HAVE YOU NOT MATCHED INTO A RESIDENCY
17 PROGRAM AFTER SO LONG?

18 A. BECAUSE OF OUR -- I MEAN, THE SIMPLE FACT IS
19 THAT ONE OF THEM BEING MAINLY FAILED ATTEMPTS.

20 Q. AND HOW DO YOU KNOW THAT THESE -- THAT YOU
21 DIDN'T GET INTO A RESIDENCY PROGRAM BECAUSE OF FAILED
22 ATTEMPTS?

23 A. BECAUSE I HAD A PROGRAM MENTOR GROUP WHO KIND OF
24 HIGHLIGHTED MY RED FLAGS.

25 Q. AND DURING YOUR INTERVIEWS FOR RESIDENCY

1 PROGRAMS, CAN YOU TALK ABOUT THAT RELATED TO YOUR
2 TRANSCRIPT?

3 A. YES. I MEAN YEAR AFTER YEAR IT'S KIND OF
4 PAINFUL TO GO THROUGH, AND I JUST FEEL LIKE I AM
5 RELIVING IT RIGHT NOW. BUT IT'S BEEN PAINFUL BECAUSE
6 EVEN DESPITE THE AMOUNT OF MONEY THAT YOU PUT IN FROM A
7 PERSON WITH LOW SOCIAL ECONOMIC STATUS KIND OF
8 SACRIFICING TO PUT THIS INTO A YOUR -- YOU ARE STILL NOT
9 CHOSEN AND YOU START TO WONDER WHAT IS WRONG WITH ME.
10 SO YOU KIND OF GET SOME OTHER MENTAL DISORDERS, SUCH AS
11 DEPRESSION BECAUSE YOU ARE OUT FOR YEARS WITHOUT A JOB.

12 Q. DR. SENOGA, YOU TALKED A LITTLE BIT ABOUT THE
13 FINANCIAL BURDEN AND THE ACCESSIBILITY.

14 YOU WERE APPLYING FOR RESIDENCY BEFORE
15 COVID, BEFORE THE SHUT DOWN?

16 A. NO, I MEAN IT WAS RIGHT AROUND COVID, YEAH.

17 Q. SO DID YOU HAVE TO DO IN-PERSON INTERVIEWS OR
18 DID YOU HAVE TO GO -- LIKE, DO IT ON SCREEN LIKE THEY
19 ARE DOING NOW?

20 A. SO INITIALLY RIGHT BEFORE COVID, BECAUSE THAT'S
21 WHAT I APPLIED, WE WERE GOING ON SITES. AND THAT WAS
22 ANOTHER FINANCIAL BURDEN, AND I AM SO GLAD IT'S BETTER
23 NOW BECAUSE THAT WAS AN EXPENSIVE PRICE FOR EVEN
24 MINORITIES TO ACHIEVE, SO THEY WERE LIMITED TO THE
25 AMOUNT OF PROGRAMS THAT THEY COULD APPLY TO.

1 Q. AND JUST A ROUGH NUMBER, WHAT DO YOU CONSIDER A
2 SIGNIFICANT AMOUNT OF MONEY FOR DOING THESE TRAVELINGS
3 AND INTERVIEWS?

4 A. SO IF YOU ARE DOING IT RIGHT, TEN GRAND PER
5 SEASON. BUT APPLYING JUST THROUGH -- YOU HAVE TO APPLY
6 SO YOU KIND OF CUT YOUR CHANCE, SO WHY BECAUSE YOU HAVE
7 RED FLAGS, SO IT'S LIKE 4,500 TO APPLY TO 200 PROGRAMS.

8 Q. SO YOU SAID HOW MANY PROGRAMS DID YOU APPLY TO?

9 A. 200 PROGRAMS FOR AROUND 4,500.

10 Q. SO THE FIRST TIME YOU APPLIED THROUGH THE MATCH
11 PROGRAM, WHAT IS THE ROUGH NUMBER THAT YOU APPLIED TO
12 THE FIRST TIME?

13 A. INITIALLY IT WAS 100, BECAUSE I NEEDED TO FACTOR
14 IN TRAVELING. SO I DON'T QUITE REMEMBER, IT WAS CLOSE
15 TO TEN GRAND.

16 Q. TEN GRAND. WHOA THAT'S A SIGNIFICANT AMOUNT OF
17 MONEY.

18 A. YOU ARE RIGHT.

19 Q. AND DURING THAT TIME, YOU DIDN'T MATCH, DID YOU?

20 A. I DID NOT.

21 Q. I THINK YOU SAID THAT EARLIER.

22 A. YES. AND THAT'S WHY IT'S SO PAINFUL, RIGHT.
23 BECAUSE IT IS MONEY THAT YOU DO NOT HAVE, AND YOU SORT
24 OF COME INTO THIS PROCESS WHERE YOU WORK AT NIGHT.

25 Q. THE SECOND -- SORRY, GO AHEAD, DR. SENOGA.

1 A. AND IT'S KIND OF LIKE GATEKEEPING. THAT'S HOW I
2 FELT IN THE PROCESS, AND I WAS BEING SHUT OUT.

3 Q. AND DR. SENOGA, YOUR SECOND TIME YOU WENT
4 THROUGH THE MATCH PROGRAM, WHAT WAS -- I GUESS A ROUGH
5 ESTIMATE OF HOW MUCH MONEY YOU SPENT ON THAT PARTICULAR
6 TIME?

7 A. THE LOWEST I WOULD SAY PER SEASON IS AROUND --
8 LIKE THE MOST IS LIKE 5 GRAND.

9 Q. FIVE GRAND. AND HOW MANY PROGRAMS DID YOU APPLY
10 TO?

11 A. IN ORDER TO DO IT RIGHT, AS I SAID, AND I GUESS
12 I DID NOT DO IT RIGHT BECAUSE I DID NOT MATCH THIS
13 SEASON, BUT I GOT A SCRAMBLE POSITION, BUT IT IS FIVE
14 GRAND.

15 Q. AND THE PROGRAMS, HOW MANY PROGRAMS DID YOU
16 APPLY TO THE SECOND TIME YOU WENT THROUGH THE MATCH
17 PROCESS?

18 A. ALL TOGETHER, EVEN DURING COVID, I GUESS THEY
19 CAME OUT TO 200.

20 Q. 200 DIFFERENT RESIDENCY PROGRAMS, DID I HEAR YOU
21 CORRECT?

22 A. YES.

23 Q. IS THAT 200 ALL THREE TIMES YOU APPLIED?

24 A. NO, NO, NO. SO THE SEASON IS FROM SEPTEMBER
25 THROUGH MARCH.

1 Q. GOT YOU.

2 SO THE FIRST TIME YOU TOOK -- YOU APPLIED
3 TO 100 PROGRAMS DID NOT MATCH?

4 A. YES.

5 Q. THE SECOND TIME YOU APPLIED TO 200 PROGRAMS AND
6 DID NOT MATCH.

7 AND HOW MANY TIMES DID YOU -- HOW MANY
8 PROGRAMS DID YOU APPLY TO YOUR THIRD TIME?

9 A. 200 STILL.

10 Q. OKAY. SO WE ARE NOW LOOKING AT APPROXIMATELY
11 500 DIFFERENT RESIDENCY PROGRAMS. AND I THINK -- AM I
12 CORRECT THAT YOU SAID THAT YOU DID NOT MATCH THROUGH THE
13 MATCH PROGRAM?

14 A. YES, I DID NOT MATCH. AND I WAS TRYING TO
15 FIGURE OUT WHAT I'M GOING TO DO, BECAUSE HERE I WAS, I
16 FELT LIKE I WAS A WORTHY CANDIDATE, I HAD EXTRA STUFF
17 LIKE A PH.D. AND MPH AND THAT WAS NOT ENOUGH, BECAUSE
18 WHAT IS GRADED IS THE STEPS.

19 Q. AND YOU SAY THAT YOU HAVE AN MPH AS WELL?

20 A. MM-HMM.

21 Q. AND YOUR PH.D., CORRECT?

22 A. UH-HUH.

23 Q. SO. EVEN WITH THESE DIFFERENT FACTORS THAT
24 WOULD HAVE MADE YOU, IN YOUR WORDS, A WORTHY CANDIDATE.

25 HOW WAS YOUR GRADES IN COLLEGE -- I MEAN

1 IN MEDICAL SCHOOL?

2 A. THAT'S WHY I SAID THAT I WAS JUST PASSING BY,
3 RIGHT. SO I HAD ADHD, BUT I WAS NOT -- I DID NOT WANT
4 TO BE DIAGNOSED BY THAT, BECAUSE IT'S NOT ACCEPTED IN
5 THE MEDICAL COMMUNITY.

6 Q. YES, EVEN -- BUT, YES.

7 AND DR. SENOGA, CAN YOU TALK A LITTLE BIT
8 ON THE TOPIC OF -- YOU SAID THAT YOU WENT THROUGH THE
9 MATCH PROCESS THREE DIFFERENT TIMES, WHICH REALLY GIVES
10 YOU AN ADVANTAGE, RIGHT, OF REALLY KNOWING -- YOU HAVE
11 SEEN THIS MULTIPLE TIMES, RIGHT?

12 A. MM-HMM.

13 Q. VERSUS NORMAL PEOPLE WOULD JUST ONLY SEE IT ONE
14 TIME.

15 CAN YOU TALK ABOUT THAT WHOLE PROCESS
16 FROM THE BEGINNING THROUGH?

17 A. I MEAN, TALKING THROUGH IT IS JUST SO PAINFUL.
18 BUT THIS TIME, YOU KNOW, I WENT FOR FAMILY SUPPORT AND
19 THEY BASICALLY WERE SAYING -- THEY WERE KIND OF EASING
20 ME TO KIND OF LET IT GO, BUT HOW MANY ETHNIC MINORITY
21 STUDENTS LET IT GO? A LOT OF STUDENTS, I WOULD SAY,
22 THAT I KNOW. AND IT'S A VERY UNFAIR PROCESS, BECAUSE I
23 WAS ALMOST DENIED A PROFESSION THAT I HAVE DEDICATED
24 OVER 12 YEARS FOR.

25 Q. YES, SORRY.

1 AND DR. SENOGA, WITH THAT GAP OF THOSE
2 THREE ROUNDS OF MISSING, HOW DOES THE -- HOW DOES THAT
3 EFFECT A PERSON WHEN APPLYING TO RESIDENCY PROGRAMS?

4 A. SO THE MORE YEAR -- THE YEAR OF GRADUATION ALSO
5 MATTERS. SO THE MORE YOU ARE AWAY, SOME PROGRAMS WILL
6 NOT TOUCH YOU. SO THERE ARE NOW ALSO GUIDELINES FOR
7 SECOND PROGRAMS LIKE INTERNAL MEDICINE, YOU CANNOT BE
8 OVER TWO YEARS OF GRADUATION. OR FAMILY MEDICINE, YOU
9 CANNOT BE OVER THREE YEARS OF GRADUATION TO ACCEPT YOU
10 INTO THE PROGRAM. THESE ARE ALL UNDER LIKE THEIR
11 GUIDANCE OF AMERICAN ASSOCIATION OF FAMILY PHYSICIAN OR
12 SEP, WHICH IS AMERICAN CLOSED PHYSICIAN, THAT IS THE
13 INTERNAL MEDICINE ASSOCIATION. THEY KIND OF DO COME UP
14 WITH THESE GUIDELINES FOR THEIR DIRECTORS.

15 Q. DO THESE PARTICULAR SOURCES THAT YOU MENTIONED,
16 WOULD YOU DEEM THEM TO BE CREDIBLE SOURCES?

17 A. ABSOLUTELY, YES. I HAVE PRESENTED IN AMERICAN
18 COLLEGE OF PHYSICIAN. I HAVE DONE TWO ABSTRACTS THERE,
19 SO I KNOW A FEW PEOPLE THAT I HAVE WORKED WITH, YES,
20 THEY ARE CREDIBLE.

21 Q. OKAY. AND DR. SENOGA, WHEN THINKING ABOUT THE
22 MATCH PROGRAM AND REGISTRATION AND THINGS OF THAT
23 NATURE, AS AN IMG, ARE THERE EXTRA STEPS THAT -- AND IF
24 SO, WHAT ARE THOSE STEPS?

25 A. SO YES, AND THAT IS ONE OF THE THINGS -- SORRY.

1 SO THAT IS ONE OF THE THINGS IN THE AMA POLICY THAT I
2 DO. I LOOK FOR IT IN ONE OF THE POLICIES THAT
3 INTERNATIONAL MEDICAL GRADS PAY FOR IN THE USMLE AS
4 OPPOSED TO ISM3 SO FOR EXAMPLE STEP 1, USMLE TAKES 150
5 AND FOR AN IMG THAT IS ONE GRAND. SO WE ARE TRYING TO
6 MAKE IT UNIFORM BECAUSE MOST INTERNATIONAL MEDICAL
7 GRADUATE STUDENTS ARE COMING FROM POOR COUNTRIES, AND
8 THEY PAY MORE THAN U.S. MEDICAL STUDENTS. IN ADDITION
9 TO THAT AS STEP 2, IT WAS LIKE 1,500 AS OPPOSED TO 800
10 OR 900. SO IT IS VERY EXPENSIVE TO BE AN INTERNATIONAL
11 MEDICAL GRAD STUDENTS.

12 Q. AND AS A U.S. CITIZEN, HOW DOES THAT ACTUALLY
13 MAKE YOU FEEL BETWEEN -- WITH THAT DISCONNECT AND BEING
14 A U.S. CITIZEN?

15 A. RIGHT, SO YOU ARE LIVING IN THE COUNTRY. I WAS
16 ACTUALLY ALSO A COVID RESPONDER, SO IT WAS VERY
17 UNFORTUNATE THAT SOME OF THESE INSTITUTIONS OR
18 FACILITIES I WAS HELPING THEM DURING THE PANDEMIC AND
19 THOSE INSTITUTIONS COULD NOT LET ME GET INTO THEIR
20 RESIDENCY PROGRAM. SO IT IS VERY HARD TO WORK FOR A
21 COMMUNITY THAT YOU KNOW THAT NEEDS THE PERSON, BUT YOU
22 CANNOT BECAUSE OF YOUR LIMITATIONS.

23 Q. AND DR. SENOGA, WHICH RESIDENCY PROGRAM --
24 EARLIER WE STATED THAT YOU WILL BE STARTING YOUR
25 RESIDENCY HERE IN A COUPLE OF WEEKS, AND CONGRATULATIONS

1 TO THAT.

2 A. THANK YOU.

3 Q. REALLY BIG PRAISE FOR THAT.

4 WHAT PROGRAM DID YOU DID YOU MATCH -- OR
5 DID YOU GO INTO?

6 A. WELL, I DON'T THINK IT'S KIND OF RELEVANT, BUT,
7 YOU KNOW, I MATCHED IN A TRANSITION YEAR AND THAT KIND
8 OF GIVES YOU AN OPPORTUNITY TO EITHER BECOME ONE OF THE
9 CATEGORICAL PROGRAMS, SUCH AS PMR, PHYSICAL MEDICAL,
10 WITHOUT LIMITATION OR DERMATOLOGY. SO YOU CAN PICK
11 DEPENDING ON WHAT YOU WANT TO BECOME.

12 Q. GOT YOU.

13 SO WERE THESE THE RESIDENCY
14 SPECIALIZATIONS THAT YOU INTENDED BEFORE YOU HAD EVER
15 TAKEN -- WHEN YOU FIRST WENT TO MED SCHOOL?

16 A. NO. SO I WANTED TO BE AN EMERGENCY MEDICINE
17 PHYSICIAN, THAT'S WHY I AM PART OF THE SOCIETY ACADEMIC
18 COMMUNITY. I WANTED TO STAY IN THE CHICAGO AREA,
19 BECAUSE I DO HAVE FAMILY HERE. BUT I CANNOT PRACTICE IN
20 ILLINOIS BECAUSE OF MY ATTEMPTED SCORE, SO I HAD TO KEEP
21 WHATEVER THAT -- YOU KNOW, IT'S A SCRAMBLE. AND AS YOU
22 HAVE SEEN MY APPROACH APPLY BROADLY AND WIDELY.

23 Q. RIGHT.

24 SO DR. SENOGA, DID I HEAR YOU CORRECT
25 WHEN YOU SAID YOU CAN'T PRACTICE IN YOUR OWN HOME STATE

1 WHERE YOU LIVE CURRENTLY?

2 A. YES.

3 Q. AND DR. SENOGA, WHEN YOU WERE APPLYING FOR --
4 SAY THAT SOMEONE SAYS, WELL, THERE COULD BE OTHER
5 FACTORS THAT SHE HAS WENT THROUGH THAT MADE HER NOT A
6 CANDIDATE FOR EMERGENCY MEDICINE.

7 DID YOU EVER -- WERE YOU EVER GIVE AN
8 INTERVIEW IN EMERGENCY MEDICINE, THE FIELD OF YOUR
9 CHOICE?

10 A. YES.

11 Q. HOW WAS THAT PROCESS, AND WHAT DID YOU GATHER
12 THAT -- SORRY.

13 HOW WAS THAT PROCESS?

14 A. SO YOU DO GET AN INTERVIEW PROCESS. THEY
15 INTERVIEW YOU. THE WAY THE PROCESS WORKS IS YOU -- THE
16 PROGRAM RANKS THE CANDIDATE, AND THE CANDIDATE RANKS THE
17 PROGRAM EVEN. SO EVEN IF I CHOSE THE PROGRAM NUMBER
18 ONE, THAT ACCORDING TO THEIR RANKING, WHICH THEIR
19 RANKING IS BASED ON STEP SCORES, LETTERS OF
20 RECOMMENDATION, TRANSCRIPTS, I WAS PROBABLY RANKED LOWER
21 BECAUSE THAT IS THEIR FAIR AND CRITICAL PROCESS, NOT
22 EQUITY, BUT EQUAL PROCESS FOR EVERYONE. BECAUSE THEY
23 HAVE APPROXIMATELY 5,000 APPLICANTS SO THEY HAVE TO FIND
24 A WAY OF NOT ONLY WEEDING INTO THE INTERVIEW PROCESS,
25 BUT ALSO WEEDING INTO THEIR APPLICANTS, AND THEY

1 PROBABLY INTERVIEWED PROBABLY AROUND 50 STUDENTS.

2 PROBABLY I WAS RANKED WAY LOWER THAN -- WHICH LEAVES ME
3 TO NOT GET THE RESIDENCY PROGRAM.

4 Q. AND FOR CLARIFICATION, ARE YOU SAYING THAT
5 PROGRAM DIRECTORS AND PROGRAMS IN GENERAL USE THE USMLE
6 AS THE FIRST BAR TO WEED OUT BECAUSE OF THE AMOUNT OF
7 CANDIDATES?

8 A. MM-HMM.

9 Q. DR. SENOGA, HOW DO YOU PROVE THAT, HOW DO YOU --
10 IS IT -- DO YOU FEEL THAT IT WOULD BE PHYSICALLY
11 POSSIBLE FOR RESIDENCY PROGRAM NOT THE USE SUCH A TOOL
12 SUCH AS A STANDARDIZED EXAM TO WEED OUT STUDENTS WHEN
13 THEY HAVE SO MANY?

14 A. IT'S JUST HUMANLY IMPOSSIBLE TO GO UNDER THOSE
15 5,000 APPLICANTS OR 10,000 APPLICANTS, RIGHT, SO IT'S
16 HUMANLY -- THERE IS A PROGRAM COORDINATOR AND PROGRAM
17 DIRECTOR, IT'S JUST HUMANLY IMPOSSIBLE TO GO THROUGH
18 THOSE APPLICATIONS.

19 SO THEY HAVE TO EITHER USE AN ALGORITHM
20 TO WEED OUT, WHICH I WAS ALWAYS WEEDED OUT. AND THE WAY
21 I SORT OF GOT THESE INTERVIEW WAS THROUGH NETWORKING.
22 REMEMBER I TOLD YOU THAT I WAS PART OF THE ASSOCIATION
23 TO GET THOSE KINDS OF CONNECTIONS SO THAT THEY COULD
24 KNOW THE PERSON THAT WAS APPLYING.

25 Q. NOW, DR. SENOGA, WHEN YOU WERE INTERVIEWING AND

1 YOU ACTUALLY WAS -- YOU WERE INTERVIEWED WITH A HUMAN.

2 DID THEY EVER GIVE YOU ANY FEEDBACK?

3 A. YES. YES.

4 Q. AND --

5 A. AS I SAID, LIKE THE PROGRAM DIRECTOR WHO I CALL
6 MY MENTOR NOW, SHE IS THE ONE WHO SAID ONE OF THE -- MY
7 LIMITING FACTORS WAS INDEED SO MANY ATTEMPTS.

8 Q. AND DID ANY OTHER PROGRAM DIRECTORS OR
9 INTERVIEWERS FOR A RESIDENCY PROGRAM GIVE YOU ANY OTHER
10 TYPES OF FEEDBACK?

11 A. YES, I GUESS. SO AS I SAID, THOSE FACTORS THAT
12 LEAD INTO IT AND HOW IT'S WEIGHED STEP SCORES,
13 RECOMMENDATION LETTERS AND TRANSCRIPTS.

14 Q. SO WOULD IT BE A GOOD REPRESENTATION THAT YOU
15 ARE SAYING THAT ACROSS THE BOARD YOUR INTERVIEWS, THESE
16 PROGRAM DIRECTORS ARE TELLING YOU THAT THEY ARE WEIGHING
17 IN ON YOUR STEP SCORES?

18 A. YES.

19 Q. OKAY. DR. SENOGA, CAN YOU -- CAN YOU TALK A
20 LITTLE BIT ABOUT -- MORE SO OF WHY EXPUNGEMENT OF A
21 CANDIDATES'S FAILED TRANSCRIPTS IF SHOWN THAT THEY WERE,
22 YOU KNOW, DISCRIMINATED AGAINST WITHIN THE ADA WHY THAT
23 IS IMPORTANT; CAN YOU EXPLAIN TO THE COURT?

24 A. SO.

25 MS. MEW: OBJECTION, YOUR HONOR.

1 THE WITNESS: OKAY. SO I GUESS I COULD
2 SAY --

3 DR. KITCHENS: ONE SECOND, DR. SENOGA. I
4 THINK MS. MEW SAID SOMETHING?

5 THE WITNESS: SHE SAID OBJECTION.

6 MS. MEW: I THINK WE ARE NOW TRANSFERRING
7 FROM JUST TALKING ABOUT THE MATCH STATISTICS TO TALKING
8 ABOUT DISABILITY RELATED ISSUES, AND I'M NOT SURE THAT
9 THERE IS FOUNDATION OR EXPERTISE FOR THAT.

10 THE COURT: DR. KITCHENS, WHAT IS THE
11 PLAN?

12 DR. KITCHENS: YES, THERE IS FOUNDATION
13 FOR IT, YOUR HONOR. DR. SENOGA IS HERE TO BE OUR EXPERT
14 ON THE SUBJECT OF A MATTER IN THIS CASE WHICH IS
15 OBVIOUSLY BEING WEIGHED VERY HEAVILY. AND WITH HER
16 EXPERT EXPERIENCE OF THIS, SHE IS MORE QUALIFIED TO TALK
17 ABOUT IT THAN I THINK ANY OF US.

18 THE COURT: WHEN YOU SAY THIS, WHAT IS
19 THE NATURE OF THE NEXT BLOCK OF TESTIMONY?

20 DR. KITCHENS: YES. IT IS TALKING ABOUT
21 THE EXPUNGEMENT OF STEP 1 OR STEP 2 EXAMS AND HOW IT
22 AFFECTS.

23 THE COURT: OKAY. MS. MEW, I AM GOING TO
24 -- WE HAVE COME THIS FAR, LET'S GET THE REST OF THE
25 TESTIMONY IN.

1 GO AHEAD, DR. KITCHENS.

2 MS. MEW: OKAY.

3 BY DR. KITCHENS:

4 Q. LET ME SAY THE QUESTION AGAIN, OKAY, DR. SENOGA?

5 A. OKAY.

6 Q. SO WHAT I WOULD LIKE FOR YOU TO LAY OUT FOR THE
7 COURT HERE -- SO I HAVE AN EXAMPLE WHERE A PERSON HAS
8 BEEN DIAGNOSED WITH WHATEVER TYPE OF MENTAL IMPAIRMENT,
9 ADHD OR ANXIETY, DOCUMENTATION AND OTHER SORTS, AND THEY
10 WERE DENIED ACCOMMODATIONS. THEY TAKE THESE PARTICULAR
11 -- THEY TAKE THE EXAMS AND THEY FAIL THE EXAMS. AND
12 THEN IF THEY GO THROUGH LITIGATION, ET CETERA, HOW IS
13 THE -- AND THAT THE PLAINTIFF IS FOUND TO BE ON THEIR
14 MERITS, THERE WAS A DISABILITY THERE, AND THEY WERE
15 WRONGFULLY DENIED UNDER THE ADA BUT STILL HAVE THE
16 MULTIPLE FAILED EXAMS ON THERE. CAN YOU EXPLAIN THAT
17 AND HOW IT NEEDS -- ABOUT THE EXPUNGEMENT THERE?

18 A. SO I GUESS IT IS A SECOND CHANCE, RIGHT. THIS
19 IS A SECOND CHANCE SITUATION WHERE NOT ONLY, AS I KIND
20 OF MENTIONED, YOU WON'T HAVE A JOB. I WILL NOT WITH
21 THOSE ATTEMPTS.

22 IN ADDITION TO THAT -- OR IF YOU WANT TO
23 BE A PHYSICIAN, YOU WILL NOT BE A PHYSICIAN, WHICH MEANS
24 THAT YOU WILL NOT BE ABLE TO PAY BACK YOUR LOANS IF YOU
25 HAD LOANS. WHICH MEANS THERE IS A STATISTIC, RIGHT,

1 THAT IS ASSOCIATED, A MORTALITY STATISTIC WITH
2 UNEMPLOYMENT AND WE ALREADY KNOW THE SOCIAL ECONOMIC
3 STATUS OF NOT ONLY THAT, BUT ALSO HEALTH AND
4 INEQUALITIES AND THE STATISTICS THAT SHOW THAT.
5 PATIENTS ARE IMPROVED BETTER WHEN THEIR DOCTORS LOOK
6 LIKE THEM.

7 IN ADDITION TO THAT, NOT ONLY ARE YOU
8 NEEDED IN SOCIETY FOR A SECOND CHANCE, YOU KNOW, IT JUST
9 GIVES -- THERE IS -- IT'S JUST NOT FAIR THAT YOU HAVE
10 NOT HAD NOT ONLY AN ACCESS ISSUE, BUT IN ADDITION TO
11 THAT, FAILED ATTEMPTS AND THAT WILL NOT GIVE YOU A JOB
12 OPPORTUNITY.

13 Q. AND LASTLY, DR. SENOGA, YOU MENTIONED SOMETHING
14 ABOUT -- I THINK ABOUT THE BENEFITS OF THE COMMUNITY
15 WHEN PEOPLE LOOK LIKE THEM.

16 IS THAT WHAT YOU WERE SAYING THERE?

17 A. CONCORDANCE, YES.

18 Q. CAN YOU --

19 A. CONCORDANCE, C-O-N-C-O-R-D-A-N-C-E, IT IS A BIG
20 ACTUALLY CALIFORNIA CORPORATE STUDY THAT WAS DONE, AND
21 IT SHOWED IMPROVEMENT ON THE PREVENTION STRATEGIES THAT
22 IMPROVEMENT IN ACCEPTANCE AND ADHERING TO TREATMENTS AS
23 WELL WHEN PATIENTS HAVE DOCTORS THAT LOOK LIKE THEM.
24 THE COMMUNITY BENEFITS, BECAUSE THOSE ARE THINGS THAT
25 HAVE BEEN PASSED INTO MORE OF LIKE -- LIKE PRESIDENT

1 BIDEN PASSED THE EQUITY INITIATIVE. AND IF THAT
2 INITIATIVE IS BEING TARGETED TOWARDS HIGH SCHOOL AND NOT
3 TARGETED TO A PERSON LIKE YOU WHO NEEDS IT, THEN THAT
4 INITIATIVE IS NOT GOING TO DO THE WORK IT NEEDS TO DO.
5 SO THIS GIVES YOU A CHANCE TO NOT ONLY HAVE ACCESS TO
6 MATERIALS BUT ALSO GET ACCESS TO BEING A PHYSICIAN.

7 Q. LAST QUESTION, DR. SENOGA.

8 IN CLOSING HERE, ARE THERE ANY OTHER
9 STATEMENTS OR WORDS THAT YOU WOULD LIKE TO ADDRESS FOR
10 THE COURT ON THE TOPIC OF EXPUNGEMENT?

11 MS. MEW: OBJECTION, YOUR HONOR.

12 THE COURT: DR. KITCHENS, YOU HAVE TO ASK
13 A SPECIFIC QUESTION.

14 DR. KITCHENS: OKAY. SORRY ABOUT THAT,
15 JUDGE.

16 NO FURTHER QUESTIONS.

17 THE COURT: YOUR WITNESS, MS. MEW.

18 MS. MEW: THANK YOU, YOUR HONOR.

19 CROSS EXAMINATION

20 BY MS. MEW:

21 Q. GOOD AFTERNOON, DR. SENOGA. MY NAME IS CAROLINE
22 MEW, I AM AN ATTORNEY FOR NBME.

23 I JUST WANTED TO CHECK, I THINK YOU WERE
24 TALKING ABOUT YOUR MEDICAL SCHOOL PERFORMANCE.

25 WHERE DID YOU ATTEND MEDICAL SCHOOL?

1 A. CARIBBEAN MEDICAL UNIVERSITY.

2 Q. AND I BELIEVE YOU STATED THAT YOUR GRADES THERE,
3 YOU WERE PASSING BY?

4 A. MM-HMM. YES.

5 Q. THANK YOU. DR. SENOGA, YES, THANK YOU.

6 MS. MEW: I DON'T HAVE ANY OTHER
7 QUESTIONS, YOUR HONOR.

8 THE COURT: OKAY. I ASSUME THERE IS NO
9 REDIRECT FOR THAT, DR. KITCHENS?

10 DR. KITCHENS: NO, SIR.

11 THE COURT: ALL RIGHT.

12 DR. SENOGA, THANK YOU FOR YOUR TIME. YOU
13 ARE FREE TO GO.

14 THE WITNESS: THANK YOU.

15 DR. KITCHENS: THANK YOU, DR. SENOGA.

16 THE COURT: ALL RIGHT. AND THEN DR.
17 KITCHENS, WE ARE BACK TO YOU, THE MASTER OF CEREMONIES
18 FOR YOUR CASE HERE. WHAT DO YOU HAVE IN STORE FOR US
19 NEXT?

20 DR. KITCHENS: YES, IF THE COURT WOULD
21 ALLOW ME TO CONTACT MY NEXT WITNESS, THEY ARE NOT ON
22 RIGHT NOW.

23 THE COURT: WHY DON'T WE DO THIS, WHY
24 DON'T I DO A LITTLE BETTER THAN THAT. WHY DON'T WE TAKE
25 TEN MINUTES, LET'S SAY.

1 DR. KITCHENS: PERFECT, YOUR HONOR.

2 THE COURT: I WILL BE BACK JUST BEFORE
3 2:30.

4 DR. KITCHENS: SOUNDS GOOD. THANK YOU.

5 (SORT RECESS TAKEN.)

6 THE COURT: DR. KITCHENS, ARE YOU READY
7 TO CALL YOUR NEXT WITNESS?

8 DR. KITCHENS: YES, SIR. YES, YOUR
9 HONOR. I WOULD LIKE TO CALL TO THE STAND MS. MISSIE
10 KING.

11 THE COURT: HELLO, MS. KING, GOOD TO SEE
12 YOU.

13 THE WITNESS: GOOD AFTERNOON.

14 THE COURT: GOOD AFTERNOON.

15 LYNN, WOULD YOU SWEAR IN THE WITNESS?

16 THE COURT REPORTER: MS. KING, CAN YOU
17 PLEASE RAISE YOUR RIGHT HAND?

18 (PLAINTIFF WITNESS, MISSIE KING, IS
19 SWORN.)

20 THE COURT REPORTER: CAN YOU PLEASE STATE
21 AND SPELL YOUR NAME FOR THE RECORD?

22 THE WITNESS: MISSIE, M-I-S-S-I-E, LAST
23 NAME KING, K-I-N-G.

24 DR. KITCHENS: YOUR HONOR, I WOULD LIKE
25 TO ASK FOR CLARIFICATION, WOULD YOU LIKE FOR ME TO SPEAK

1 IN THIRD PERSON OR FIRST PERSON TO MY MOTHER?

2 THE COURT: WHATEVER IS COMFORTABLE FOR
3 YOU. WHAT IS MOST IMPORTANT IS THAT THE QUESTIONS MAKE
4 SENSE TO ALL OF US AND ARE UNDERSTANDABLE, SO DO WHAT
5 YOU THINK IS MOST COMFORTABLE.

6 DR. KITCHENS: YES, SIR. THANK YOU, YOUR
7 HONOR.

8 DIRECT EXAMINATION

9 BY DR. KITCHENS:

10 Q. SO MS. KING, WHAT IS YOUR RELATIONSHIP TO ME?

11 A. I AM YOUR MOTHER.

12 Q. WHAT STATE DO YOU CURRENTLY RESIDE IN?

13 A. TENNESSEE.

14 Q. AND WHAT CITY?

15 A. CHATTANOOGA.

16 Q. HOW LONG HAVE YOU LIVED THERE?

17 A. ALL MY LIFE, 50 YEARS.

18 Q. AND DO YOU LIVE WITH ME?

19 A. NO, I DO NOT.

20 Q. WHEN WAS THE LAST TIME THAT YOU LIVED WITH ME?

21 A. THE LAST TIME WE LIVED TOGETHER YOU WERE 18.

22 AFTER HIGH SCHOOL WE NEVER LIVED TOGETHER AGAIN.

23 Q. OKAY. AND MS. KING, DO YOU HAVE ANY OTHER

24 CHILDREN OUTSIDE OF MYSELF?

25 A. YES, I HAVE A YOUNGER SON.

1 Q. AND MS. KING, WHAT IS THE HIGHEST LEVEL OF
2 EDUCATION THAT YOU HAVE COMPLETED?

3 A. ASSOCIATES OF SCIENCE.

4 Q. AND THAT DEGREE WAS IN WHAT?

5 A. RELIGIOUS STUDIES.

6 Q. I WOULD LIKE TO ASK YOU, HOW WOULD YOU DESCRIBE
7 YOUR RELATIONSHIP WITH ME, OUR RELATIONSHIP?

8 A. WE HAVE A GREAT RELATIONSHIP. WE TALK ON THE
9 PHONE, YOU KNOW, WHENEVER YOU ARE NOT STUDYING OR TOO
10 BUSY FOR YOUR MOTHER. AND SO WHENEVER YOU GET A CHANCE
11 TO MAKE IT HOME, WE NORMALLY WOULD GO OUT TO DINNER AND
12 EAT AND LAUGH AND TALK AND SOMETIMES, YOU KNOW, WE WOULD
13 STAY UP TO 3:00 AND 4 O'CLOCK IN THE MORNING JUST
14 TALKING ABOUT ANYTHING. EVEN IF I HAD TO GET UP REALLY
15 EARLY AND HAVE A REALLY EARLY APPOINTMENTS IN THE
16 MORNING, I DIDN'T CARE, I JUST WANTED TO TAKE ADVANTAGE
17 OF THE TIME THAT I HAD WITH YOU BECAUSE I REALLY DON'T
18 GET TO SEE YOU THAT MUCH.

19 Q. AND ALONG WITH THIS CASE HERE -- LET'S MOVE ON
20 HERE.

21 MS. KING, WHEN I WAS -- CAN YOU GIVE AN
22 OVERVIEW OF MY ELEMENTARY SCHOOL EXPERIENCE?

23 A. WELL, WHEN YOU WERE IN ELEMENTARY SCHOOL, YOU
24 HAD A PROBLEM WITH PAYING ATTENTION, STAYING FOCUSED,
25 BEING A DISTRACTION FOR YOURSELF AND A DISTRACTION FOR

1 OTHER KIDS. YOUR READING WAS POOR, COMPREHENSION, MATH,
2 YES, IT WAS A STRUGGLE.

3 Q. AND WHAT ELEMENTARY SCHOOL DID I ATTEND?

4 A. RIVERMONT ELEMENTARY SCHOOL.

5 Q. IS THERE ANY OTHER ELEMENTARY SCHOOL?

6 A. YES, YOU ATTENDED BESS T SHEPHERD IN FIFTH GRADE
7 BECAUSE WE MOVED.

8 Q. AND YOU TALKED ABOUT DISTRACTING OTHER STUDENTS.
9 SO YOU ARE IMPLYING BEHAVIORAL ISSUES IN THE CLASSROOM?

10 A. YES. YOU LOVED TO TALK, RUN THAT MOUTH ALL DAY
11 LONG. YOU LOVED TO PLAY. YOU LOVED TO, YOU KNOW, PLAY
12 WITH YOUR LITTLE FRIENDS AND DISTRACT THEM WHEN YOU WERE
13 SUPPOSED TO BE DOING YOUR WORK OR, YOU KNOW, WHATEVER
14 THE TEACHER IS DOING, YOU WERE SUPPOSED TO BE PAYING
15 ATTENTION.

16 Q. AND WERE YOU EVER NOTIFIED BECAUSE OF THESE
17 BEHAVIORAL ISSUES BY THE SCHOOL?

18 A. YES, YOUR TEACHER WOULD CALL ME SEVERAL TIMES A
19 WEEK. SHE WOULD CALL ME AND SHE WOULD BE, YOU KNOW, A
20 LITTLE FRUSTRATED WITH YOU BECAUSE OF, YOU KNOW, YOUR
21 BEHAVIOR, SOMETIMES IT WAS A LITTLE HARD TO GET A HANDLE
22 ON YOU. AND AT TIME, WHEN SHE WOULD CALL, I WOULD HAVE
23 TO COME UP TO THE SCHOOL AND STRAIGHTEN YOU OUT.

24 Q. MM-HMM.

25 AND WHEN YOU -- AND FOR CLARIFICATION,

1 WHEN YOU SAY STRAIGHTEN ME OUT, WHAT DO YOU ACTUALLY
2 MEAN THERE, MS. KING, FOR THE RECORD?

3 A. WELL, SO WHEN I WAS IN SCHOOL, THE TEACHERS HAD
4 THE CHANCE TO, YOU KNOW, SPANK YOU, OR WHATEVER. AND IT
5 WAS OKAY, EVEN IF YOU WOULD GET SENT TO THE PRINCIPAL'S
6 OFFICE OR WHATEVER, THEY CAN GIVE YOU A LITTLE PAT AND
7 MAKE YOU BEHAVE AND SEND YOU BACK TO CLASS.

8 WELL, WHEN YOU WERE IN SCHOOL, THE
9 TEACHERS COULD NOT PADDLE YOU ANYMORE, BUT YOUR
10 PRINCIPAL WOULD LET ME USE HER OFFICE. AND I TAKE YOU
11 IN THERE AND I SPANK YOUR BOTTOM AND GET YOU TOGETHER
12 AND SEND YOU BACK TO YOUR CLASS. AND WE DEFINITELY
13 WOULD HAVE A GOOD TALKING WITH YOU TOO, SO.

14 Q. SO I WOULD LIKE TO SAY, SO IN YOUR DECLARATION,
15 IN THE AFFIDAVIT, YOU STATED THAT YOU BROUGHT ME TO MY
16 PEDIATRICIAN. TO THE BEST OF YOUR RECOLLECTION, DO YOU
17 REMEMBER WHO THAT DOCTOR WAS?

18 A. YES, DR. JORDAN.

19 Q. AND SO DR. JORDAN. DR. JORDAN WAS THE
20 PEDIATRICIAN, RIGHT, THAT'S WHAT YOU ARE SAYING?

21 A. YES.

22 Q. AND SO WHAT -- WHY DID YOU EVEN DECIDE TO TAKE
23 ME TO DR. JORDAN?

24 A. WELL, YOUR SECOND GRADE TEACHER, WHEN YOU FIRST
25 STARTED WITH HER, I ASKED HER IF SHE COULD ISOLATE YOU

1 AND SIT YOUR DESK NEXT TO HER -- SIT YOUR DESK NEXT TO
2 HERS TO MINIMIZE DISTRACTIONS FROM YOU AND YOUR OTHER
3 LITTLE CLASSMATES OR WHATEVER, JUST AS WE DID IN FIRST
4 GRADE. AND I WOULD TELL HER ABOUT YOUR TALKING AND
5 DISTRACTIONS AND NOT ABLE TO FOCUS AND, YOU KNOW, ABOUT
6 YOUR LOW SCORES IN READING AND COMPREHENSION AND
7 EVERYTHING. AND WE HAD GOOD TALKS, AND SHE WOULD ASSURE
8 ME THAT, YOU KNOW, SHE WOULD BE MORE HANDS ON WITH YOU.
9 BECAUSE SHE HAD SEEN THIS BEFORE, AND AFTER A WHILE, SHE
10 ASKED ME IF I WOULD, YOU KNOW, GET YOU MEDICAL ADVICE,
11 BECAUSE SHE SEEN THESE BEHAVIORS BEFORE. THAT'S WHAT
12 MADE ME TAKE YOU.

13 Q. GOT YOU.

14 AND WHAT MEDICAL ADVICE DID DR. JORDAN
15 GIVE TO YOU?

16 A. WELL, AFTER SHE DID DIFFERENT EVALUATIONS OR
17 WHATEVER, SHE CAME TO THE CONCLUSION THAT YOU HAD ADHD.
18 AND SHE PRESCRIBED RITALIN, BUT I DENIED IT, I DECLINED
19 IT.

20 Q. WHY DID YOU DECLINE THIS PARTICULAR MEDICATION?

21 A. I DECLINED IT BECAUSE I WAS AFRAID OF THE SIDE
22 EFFECTS. I DIDN'T WANT THAT IN YOUR BODY. YOU KNOW, I
23 WAS SO YOUNG WHEN I HAD YOU, LIKE I REALLY DIDN'T KNOW
24 WHAT ADHD REALLY WAS, I DIDN'T REALLY UNDERSTAND IT.
25 BUT I DO KNOW THAT THE MEDICINE, I DID NOT WANT IT IN

1 YOUR BODY BECAUSE I DIDN'T WANT YOU, YOU KNOW, SITTING
2 AROUND LOOKING LIKE A ZOMBIE, I WAS SO USED TO YOU BEING
3 SO HYPERACTIVE AND ANOREXIA, THAT WAS A SIDE EFFECT,
4 ALSO SUICIDE. THERE WAS A YOUNG LADY THAT I KNEW WHOSE
5 SON WAS TAKING RITALIN, AND HE USED TO BEAT ON HIS
6 LITTLE BROTHER AND JUST TREAT HIM JUST MEAN. AND HE WAS
7 AGGRESSIVE WITH HIM, AND ONE DAY HIS BROTHER WALKED IN
8 THE ROOM AND HE HAD A SHARP PENCIL, AND HE WAS TRYING TO
9 STICK HIMSELF IN THE WRIST LIKE THIS. AND HE SCREAMED
10 AND YELLED AND RAN TO HIS MOTHER. AND WHEN HIS MOTHER
11 RAN IN THERE, SHE WAS TUSSLING WITH HIM TO TAKE THE
12 PENCIL FROM HIS HAND, AND HE KEPT SCREAMING SAYING, I
13 DON'T LIKE MYSELF, I HATE MYSELF. AND HE WAS SAYING
14 THAT HE WANTED TO DIE. AND THAT WAS REALLY, REALLY
15 TERRIFYING FOR ME, YOU KNOW, HAVING A CHILD THAT NEEDED
16 THESE MEDICINES. SO I DECLINED IT, BECAUSE I WAS
17 AFRAID.

18 Q. AND WHEN DID YOU HAVE ME, HOW OLD WERE YOU WHEN
19 YOU HAD ME, DO YOU REMEMBER?

20 A. YES. I WAS 18. I WAS PREGNANT WITH YOU THE
21 LAST TWO MONTHS OF HIGH SCHOOL.

22 Q. AND AT THAT TIME, DID YOU HAVE YOUR OWN HOUSING
23 OR --

24 A. NO, DEFINITELY NOT.

25 Q. AND WHO DID YOU LIVE WITH?

1 A. I LIVED WITH MY MOTHER AND SOMETIMES I WOULD
2 STAY AT YOUR GRANDMOTHER'S HOUSE.

3 Q. AND WHAT ECONOMIC STATUS WAS THAT AREA THAT YOU
4 LIVED IN?

5 A. IT WAS HOUSING PROJECTS.

6 Q. HOUSING PROJECTS.

7 IS IT SAFE TO SAY IT WAS LOWER INCOME
8 PROJECTS?

9 A. YES, DEFINITELY, YES.

10 Q. AND DURING RAISING MYSELF AND MY BROTHER, CAN
11 YOU DESCRIBE TO THE COURT THAT EXPERIENCE OF RAISING US?

12 A. WELL, BEING A SINGLE PARENT, RAISING TWO KIDS IS
13 NEVER EASY. SOMETIMES EVEN IF IT'S A TWO PARENT
14 HOUSEHOLD, YOU KNOW, IT'S STILL NOT EASY. YOU HAVE TO
15 INSTALL VALUES, YOU HAVE TO KEEP A ROOF OVER THEIR HEAD,
16 CLOTHES ON THEIR BACK, FOOD ON THE TABLE. YOU HAVE TO
17 MAKE SURE THAT THEY ARE GETTING THEIR EDUCATION. IT'S
18 SO MUCH THAT COMES WITH PARENTING. AND, YOU KNOW, IT'S
19 A STRUGGLE DOING THAT ON YOUR OWN.

20 ALTHOUGH, YOU HAVE FAMILY WHO WILL PITCH
21 IN, BUT BEING THE SOLE PROVIDER, YOU KNOW, IT WAS PRETTY
22 HARD.

23 Q. I WOULD LIKE TO GO BACK A LITTLE BIT TO
24 SCHOOLING. WHEN YOU SAID THAT IN SECOND GRADE AND FIRST
25 GRADE THAT YOU WENT AND SPOKE TO THE TEACHERS ABOUT

1 SEPARATING ME FROM THE REST OF THE CLASS.

2 WAS THERE ANY OTHER GRADES THAT YOU DID
3 THAT TYPE OF ACTIVITY?

4 A. YES. I DID THAT FIRST, SECOND, THIRD, FOURTH
5 AND FIFTH GRADE. I HAD THEM TO MOVE YOUR DESK NEXT TO
6 THEM SO, YOU KNOW, THEY COULD BE IN CLOSE PROXIMITY.
7 AND EVEN IF YOU NEEDED HELP, NOT ONLY JUST BEING A
8 DISTRACTION, IF YOU NEEDED HELP, THEY WERE RIGHT THERE
9 AT HAND'S REACH.

10 Q. AND WERE THERE ANY OTHER TYPE OF ACTIONS THAT
11 YOU USED TO DO BECAUSE OF -- WHILE I WAS IN SCHOOL,
12 LIKE, CURRENTLY IN THE CLASSROOM DUE TO MY BEHAVIOR, OR
13 IS THERE ANY OTHER ACTIONS THAT YOU WOULD DO?

14 A. WHEN IT CAME TO YOUR BEHAVIOR, YES, AT TIMES YOU
15 WOULD GET A SPANKING, AND I WOULD TAKE AWAY YOUR
16 FAVORITE TOYS. I WOULD NOT LET YOU DO THINGS LIKE GO TO
17 YOUR COUSIN'S HOUSE AND JUST DIFFERENT THINGS. I WOULD,
18 YOU KNOW, TAKE AWAY YOUR PRIVILEGES.

19 Q. AND HAVE YOU EVER FIRSTHAND EXPERIENCE OF SEEING
20 ME IN THE CLASSROOM DURING THOSE YEARS?

21 A. YES. SOMETIMES I WOULD COME TO THE SCHOOL,
22 ESPECIALLY ON MY OFF DAYS, OR IF I HAD TIME IN BETWEEN
23 APPOINTMENTS, I WOULD COME TO THE SCHOOL AND I WOULD
24 JUST STARE AT YOU IN THE LITTLE WINDOW IN THE DOOR. AND
25 YOU WOULD NOT EVEN KNOW THAT I WAS STANDING THERE.

1 Q. SO WOULD YOU -- YES, OKAY.

2 I WOULD LIKE TO ASK YOU NOW, WERE YOU
3 EVER AWARE OF ANY INDIVIDUALIZED EDUCATION PLANS GIVEN
4 TO ME DURING ELEMENTARY SCHOOL?

5 A. IN SCHOOL, THE READING PROGRAM, THE SAIL
6 PROGRAM, I DIDN'T KNOW THAT THEY PUT YOU IN THAT
7 PROGRAM, SO -- AND I DIDN'T PUT YOU IN THE PROGRAM, SO I
8 AM JUST FIGURING THAT THEY PROBABLY SAW THE NEED, AND SO
9 THEY PUT YOU IN THE PROGRAM THEMSELVES.

10 EVEN WHEN I WAS IN ELEMENTARY SCHOOL, I
11 TOOK A SPECIAL READING PROGRAM MYSELF, YOU KNOW, DURING
12 ELEMENTARY SCHOOL.

13 Q. I WOULD LIKE TO PULL UP THE JOINT EXHIBIT 1. IF
14 WE CAN PULL UP JOINT EXHIBIT 1, WHICH IS -- YES. I
15 THINK IT'S ONLY ONE PAGE.

16 MS. KING, CAN YOU --

17 A. I NEED MY GLASSES.

18 Q. OKAY. WE WILL ZOOM IN ON IT FOR YOU SO YOU CAN
19 SEE IT. ONE SECOND. IS THAT GOOD, IS THAT BETTER
20 THERE?

21 A. OKAY.

22 Q. THAT'S THE ENTIRE DOCUMENT.

23 A. YES, I SEE IT.

24 Q. CAN YOU SCROLL BACK UP TO THE TOP, PLEASE?

25 SO CAN YOU DESCRIBE WHAT THIS DOCUMENT

1 IS?

2 A. IT LOOKS LIKE YOUR GRADES, THE RECORDS FROM
3 ELEMENTARY SCHOOL.

4 Q. YES, THAT IS CORRECT.

5 CAN YOU --

6 A. HIGH SCHOOL, I'M SORRY.

7 Q. YES, THAT'S RIGHT. IF WE CAN SCROLL DOWN JUST A
8 LITTLE BIT.

9 DO YOU SEE IN THE AREA -- ONE SECOND
10 PLEASE. CAN YOU IDENTIFY FIRST GRADE?

11 A. YES.

12 Q. AND CAN YOU SCROLL -- AND THE WORD UP THERE
13 ABOVE IT, CAN YOU READ WHAT THAT WORD IS THERE? IT'S
14 THREE LINES UP.

15 A. ARE YOU TALKING ABOUT THE SAIL READING.

16 Q. MM-HMM.

17 A. MM-HMM.

18 Q. YES. AND OVER TO THE LEFT OF THAT, DO YOU SEE
19 THE -- WHAT THAT SAYS THERE, WHERE THE CURSOR IS, THE
20 HAND?

21 A. IS THAT SHORT FOR INDIVIDUAL INSTRUCTION?

22 Q. YES, MA'AM, IT IS.

23 SO BY LOOKING AT THIS, AND -- WHAT WOULD
24 YOU CONCLUDE FROM FROM READING IN FIRST GRADE THIS WORD?
25 WHAT WOULD YOU CONCLUDE, MEANING YOUR INTERPRETATION OF

1 THIS?

2 A. YOU SAID FROM THE INTERPRETATION OF INDIVIDUAL
3 INSTRUCTION?

4 Q. YES, MA'AM?

5 A. I MEAN --

6 Q. OKAY. LET ME REPHRASE THE QUESTION, IF THAT
7 WOULD HELP.

8 SO YOU JUST MENTIONED THAT IT'S
9 INDIVIDUAL INSTRUCTION FOR READING?

10 A. YES.

11 Q. IS THAT WHAT THIS --

12 CAN YOU SEE DOWN HERE TO THE LEFT IT SAYS
13 SUBJECTS, IF WE CAN CIRCLE AROUND SUBJECTS, AND THEN IT
14 HAS READING.

15 A. MM-HMM.

16 Q. IF WE SCROLL OVER TO THE FIRST GRADE, CAN YOU
17 TELL WHAT LETTERS THOSE ARE?

18 A. YES, N AND U. YES, YOU DEFINITELY NEEDED
19 INDIVIDUAL HELP, HANDS ON WITH YOUR READING.

20 Q. AND THIS WAS PRETTY COMMON WITH WHAT YOU WERE
21 SAYING EARLIER.

22 NOW, IF WE CAN COME OVER TO THE THIRD
23 GRADE, DO YOU SEE THE THIRD GRADE THERE?

24 A. YES.

25 Q. AND IF WE COME DOWN TO SOCIAL STUDIES, CAN YOU

1 TELL US WHAT THAT GRADE IS?

2 A. HOLD ON.

3 Q. WE CAN PROBABLY ZOOM IN.

4 A. IT LOOKS LIKE AN N.

5 Q. YES, THIS IS CORRECT.

6 DR. KITCHENS: YOUR HONOR, FOR TIME'S
7 SAKE, I THINK WE ARE HAVING SOME TECHNICAL DIFFICULTIES
8 ON THAT DOCUMENT, BUT FOR TIME'S SAKE, I WILL MOVE ON
9 FROM IT. I WOULD LIKE TO PUT EXHIBIT -- PUT JOINT
10 EXHIBIT 1 INTO THE RECORD?

11 MS. MEW: NO OBJECTION, YOUR HONOR.

12 THE COURT: PX1 IS ADMITTED.

13 (PLAINTIFF EXHIBIT 1 IS ADMITTED INTO
14 EVIDENCE.)

15 BY DR. KITCHENS:

16 Q. SO GOING EVEN FURTHER DOWN HERE, NOW I WANT TO
17 TALK ABOUT OTHER REMEDIES THAT -- WERE THERE OTHER
18 THINGS THAT YOU PUT IN PLACE FOR ME TO ENSURE THAT I
19 GAINED THE BEST UNDERSTANDING OF MY SCHOOL MATERIAL?

20 A. YES. SO AT FIRST I PUT YOU IN DIFFERENT READING
21 -- I GOT YOU DIFFERENT READING HELP. SO I PUT YOU IN
22 KUMON READING AND MATH CENTER. AND YOU WERE TUTORED BY
23 YOUR AUNT SANDRA, YOU WERE TUTORED BY A YOUNG LADY NAMED
24 WHITNEY. YOU HAD HOOKED ON PHONICS CASSETTES, SO -- YOU
25 ALSO HAD THE HOOKED ON PHONICS VHS.

1 Q. AND FROM THE DOCUMENT, MS. KING, THAT YOU JUST
2 READ TO THE COURT, AND N'S READING AND IN SOCIAL STUDIES
3 WHICH BOTH WOULD REQUIRE A SUBSTANTIAL AMOUNT OF READING
4 THERE.

5 SO DID IT SURPRISE YOU THAT YOU HAD TO
6 PUT ME IN CERTAIN PROGRAMS TAILORED AROUND THESE
7 PARTICULAR SUBJECTS?

8 A. NO, IT DIDN'T, BECAUSE THOSE WERE THE AREAS THAT
9 YOU REALLY STRUGGLED IN.

10 Q. AND WHAT MADE THESE PARTICULAR PEOPLE THAT WERE
11 NOT, QUOTE, UNQUOTE, TEACHERS QUALIFIED TO ACTUALLY
12 TEACH -- COACH ME ON THESE PARTICULAR SUBJECTS?

13 A. WELL, SAUNDRA, SHE OWNED A DAYCARE CENTER FOR
14 MANY YEARS, AND SHE WORKED WITH MANY CHILDREN THROUGHOUT
15 THE YEARS. AND WHITNEY, SHE WAS AN HONOR STUDENT IN
16 HIGH SCHOOL, SHE WAS A SENIOR. AND AFTER SHE GRADUATED
17 HIGH SCHOOL, SHE WENT ONTO COLLEGE TO STUDY ENGLISH.

18 Q. OKAY. AND DID I EVER IN ANY OF MY SCHOOLING
19 FROM FIRST GRADE THROUGH FIFTH GRADE EVER REPEAT ANY
20 COURSES, ANY CLASSES?

21 A. WELL, FIRST GRADE THEY WANTED TO RETAIN YOU, AND
22 I DECLINED. AND THEY WANTED TO RETAIN YOU IN THIRD
23 GRADE -- I AM THINKING -- I CAN'T REMEMBER IN FOURTH
24 GRADE ALSO, BUT I DO KNOW THAT I DECLINED TO FAIL YOU,
25 AND I DECLINED TO RETAIN YOU GIVEN BEING THAT I WANTED

1 TO DO TRY MY BEST, YOU KNOW, TO HELP YOU GET TO THE
2 LEVEL THAT YOU NEEDED TO BE ON WITHOUT HOLDING YOU BACK.
3 AND PLUS, YOUR BROTHER WAS ONLY A YEAR YOUNGER THAN YOU,
4 SO I DIDN'T WANT HIM TO END UP BEING IN THE SAME GRADE
5 AND BEING SURPASSING YOU ALSO.

6 Q. AND YOU SPOKE EARLIER ABOUT THESE UNOFFICIAL
7 ACCOMMODATIONS THAT WERE PUT IN PLACE WHEN YOU SPOKE TO
8 THE TEACHERS TO PUT ME IN ISOLATION AND THINGS TO HELP
9 ME FOCUS.

10 DID YOU FEEL THAT THAT WAS BENEFICIAL OR
11 NOT?

12 A. YES, I DO FEEL LIKE IT WAS BENEFICIAL. THAT'S
13 WHY AT THE BEGINNING OF EVERY SCHOOL YEAR I WOULD HAVE,
14 YOU KNOW, TALKS WITH YOUR TEACHERS OR MEETINGS WITH YOUR
15 TEACHERS TO LET THEM KNOW THAT I FOUND THIS, YOU KNOW,
16 EFFECTIVE. BECAUSE IF YOU ARE IN CLOSE PROXIMITY, THEY
17 CAN, YOU KNOW, KEEP TABS ON YOU, AND THEY CAN QUIET YOU
18 DOWN OR MAKE YOU BE STILL. OR IF YOU NEEDED HELP, YOU
19 KNOW, THEY COULD HELP YOU, BECAUSE YOU WOULD -- IN YOUR
20 READING, YOU WOULD GET STUCK ON WORDS. AND IF YOU GET
21 STUCK ON A WORD, YOU WON'T MOVE ON, ALTHOUGH YOUR
22 TEACHER TELLS YOU IF YOU DON'T KNOW THE WORD MARKCUS,
23 JUST MOVE ONTO THE NEXT, JUST KEEP GOING. BUT IN YOUR
24 LITTLE MIND, YOU COULD NOT MOVE ON, YOU JUST STAYED
25 THERE UNTIL YOU FIGURED IT OUT. AND YOU WASTED SO MUCH

1 TIME, YOU KNOW, ON TRYING TO SOUND THE WORD OUT. AND
2 EVEN WITH YOUR COMPREHENSION, YOU WOULD READ THE SAME
3 SENTENCE OR SMALL PARAGRAPH OVER AND OVER AGAIN UNTIL
4 YOU REALLY GRASPED THE CONCEPT OF IT.

5 Q. AND MOVING ON FROM ELEMENTARY SCHOOL TO MIDDLE
6 SCHOOL, DID THESE TYPE OF -- DID THESE TYPE OF
7 BEHAVIORAL ACTIVITIES CONTINUE OR -- YES?

8 A. SO IN MIDDLE SCHOOL, BY THE TIME YOU WERE IN
9 SIXTH GRADE, I DIDN'T GO TO YOUR TEACHER AND ASK HER TO
10 ISOLATE YOU. I REALLY FELT LIKE THAT WAS -- THAT WOULD
11 PROBABLY BE KIND OF EMBARRASSING FOR A 12-YEAR OLD TO BE
12 ISOLATED NEXT TO HIS TEACHER, YOU KNOW, STANDING OUT
13 LIKE A SORE THUMB. BUT I DO REMEMBER YOU MOVING
14 YOURSELF FROM OTHER KIDS, BUT THAT'S BECAUSE YOU NEEDED
15 TO FOCUS. AND IT WAS, YOU KNOW, A LITTLE HARD FOR YOU
16 TO FOCUS WHILE YOU ARE SITTING NEXT TO FRIENDS AND
17 EVERYBODY IS TALKING, BECAUSE YOU GET OFF TRACK SO
18 EASILY.

19 Q. AND WAS THERE OTHER TOOLS GIVEN OR PROVIDED THAT
20 ALLOWED TO STAY ON FOCUS?

21 A. YES. SO IN SIXTH GRADE, THE SCHOOL STARTED
22 GIVING OUT THESE AGENDA BOOKS. AND SO THE AGENDA BOOK
23 ALLOWED YOU TO WRITE YOUR SUBJECTS IN IT, YOU KNOW, AND
24 TIMES AND DATES, YOU KNOW, JUST DIFFERENT THINGS OF THAT
25 NATURE.

1 AND AT HOME, I PUT A NOTEPAD WITH THE
2 MAGNET ON THE BACK, I PUT THAT ON THE REFRIGERATOR, AND
3 I WROTE EVERYTHING ON IT THAT YOU NEEDED, AND YOUR
4 BROTHER NEEDED, EVERYTHING THAT YOU NEEDED TO DO, YOUR
5 CHORES, YOUR HOME WORK, READ THIS BOOK, YOU KNOW, AND
6 YOU HAD TO -- THAT WAS YOUR CHECKLIST. AND YOU WOULD
7 HAVE TO GO IN THERE AND CHECK IT OFF AS YOU DID IT AND
8 PUT THE TIME BY IT.

9 Q. IT SOUNDS LIKE YOU KEPT US BUSY.

10 A. YES.

11 Q. WAS THERE A REASON WHY YOU DECIDED TO KEEP US
12 BUSY?

13 A. YES, BECAUSE -- WELL NUMBER ONE, MY MOTHER RAN A
14 STRICT HOUSEHOLD, AND I DID, TOO. AND BEING A SINGLE
15 PARENT RAISING TWO BOYS, I HAD TO STAY ON TOP OF YOU
16 ALL, AND I HAD TO KEEP YOU FOCUSED. AND YOU KNOW, YOU
17 COULD HAVE BEEN OUT HERE DOING ANYTHING, BUT I TRIED TO
18 KEEP A GOOD, TIGHT RESTRAINT ON BOTH OF YOU.

19 Q. AND HOW IMPORTANT IS EDUCATION TO YOU?

20 A. EDUCATION IS VERY IMPORTANT. SO I USED TO
21 ALWAYS TRY TO TALK TO YOU AND LET YOU KNOW HOW IMPORTANT
22 GOOD GRADES ARE, YOU KNOW, SO YOU CAN GET INTO A GOOD
23 SCHOOL, GOOD COLLEGE. AND YOUR BROTHER ALWAYS LOOKED UP
24 TO YOU. AND YOUR LITTLE COUSINS, LIKE THEY LOVE YOU AND
25 THEY HAVE ALWAYS LOOKED UP TO YOU. SO IT WAS ALWAYS

1 IMPORTANT TO LEAD BY EXAMPLE.

2 Q. AND WHAT DID THAT -- KNOWING THIS TYPE OF
3 INFORMATION, HOW DID -- ABOUT THEM LOOKING UP AND ALL OF
4 THESE THINGS AS YOU JUST MENTIONED, HOW DID THAT EFFECT
5 ME PERSONALLY?

6 A. WELL, IT MADE YOU -- YOU KNOW, IT MADE YOU WORK
7 EVEN HARDER, TO TRY TO MAKE SURE YOU COULD DO, YOU KNOW,
8 THE BEST THAT YOU COULD TO TRY TO ACHIEVE THE GRADES AND
9 THE GOALS THAT YOU WERE, YOU KNOW, LOOKING FOR.

10 WHEN YOU WERE IN HIGH SCHOOL, IT WAS A
11 BIT FRUSTRATING, YOU KNOW, BECAUSE YOU REALLY WANTED
12 THESE GRADES SO YOU COULD GET INTO A GOOD COLLEGE,
13 BECAUSE YOU DID, YOU HAD DREAMS AND AMBITIONS.

14 Q. AND WHAT WERE SOME OF THOSE DREAMS AND AMBITIONS
15 WHEN I WAS IN HIGH SCHOOL?

16 A. THE MAIN THING THAT YOU WANTED TO BE WAS A
17 PLASTIC SURGEON, BECAUSE YOU WANTED TO HELP THE CRANIAL
18 -- KIDS WITH CRANIAL FACIAL, I HOPE I SAID THAT RIGHT,
19 DEFECTS.

20 Q. SO YOU ARE SAYING THAT IN HIGH SCHOOL I ALREADY
21 HAD THESE ASPIRATIONS OF BEING A PHYSICIAN?

22 A. MM-HMM.

23 Q. MM-HMM.

24 A. YES.

25 Q. AND YOU ALSO SAID THAT THEY LOOKED UP TO ME AND

1 THINGS OF THAT SORT AND THAT THAT MADE ME PUSH HARDER.

2 A. MM-HMM.

3 Q. OKAY. THANK YOU.

4 AND I WOULD LIKE TO PULL UP JOINT EXHIBIT
5 NUMBER TWO, AND ZOOM IN, PLEASE. YES, THAT IS GOOD.

6 CAN YOU DESCRIBE -- AND SCROLL THROUGH,
7 PLEASE, FOR THE RECORD. THANK YOU.

8 CAN YOU DESCRIBE WHAT YOU ARE SEEING HERE
9 ON THE SCREEN?

10 A. YOUR MIDDLE SCHOOL TRANSCRIPTS.

11 Q. THANK YOU. AND CAN WE -- CAN YOU SCROLL DOWN?

12 AND SO CAN YOU LOOK AT -- FOR IN THE
13 SIX-GRADE, DO YOU SEE HIGHLIGHTED THERE GRADE 06?

14 A. YES.

15 Q. DO YOU SEE ON THE LEFT WHERE IT SAYS, TITLE, AND
16 COME DOWN TO WHERE -- AND COME DOWN TO LNG. DO YOU SEE
17 THAT?

18 A. LANGUAGE ARTS, YES.

19 Q. YES.

20 AND CAN YOU SEE THOSE -- CAN YOU CALL OUT
21 THOSE GRADES THAT YOU CAN SEE THERE? WE CAN ZOOM IN A
22 LITTLE BIT FOR YOU.

23 A. OKAY. I CAN SEE IT NOW.

24 FIRST QUARTER, 70; SECOND QUARTER, 76;
25 THIRD QUARTER, 70; FOURTH QUARTER, 78; AND YEAR AVERAGE,

1 74.

2 Q. AND IF YOU CAN COME DOWN, DOWN TO -- STILL STAY
3 AT SIXTH GRADE. AND THEN LOOK AT WHERE IS SAYS SOSTU?

4 A. MM-HMM. SOCIAL STUDIES.

5 Q. YES, SOCIAL STUDIES.

6 CAN YOU CALL UP THOSE GRADES QUICKLY,
7 PLEASE?

8 A. FIRST QUARTER, 78; SECOND QUARTER, 70; THIRD
9 QUARTER, 71; FOURTH QUARTER, 77; YEAR AVERAGE, 74.

10 Q. AND IN THOSE TWO PARTICULAR COURSES, WOULD YOU
11 SAY THAT THOSE WOULD REQUIRE -- HOW COULD YOU COMPARE
12 THOSE PARTICULAR CLASSES -- THOSE GRADES OF THOSE
13 PARTICULAR CLASSES VERSUS THE OTHER ONE?

14 A. THOSE TWO PARTICULAR CLASSES LOOKS LIKE YOU
15 NEEDED HELP.

16 Q. AND FOR THOSE COURSES, HOW WOULD YOU DESCRIBE
17 THOSE COURSES ON THE LEVEL OF READING -- THE LEVEL OF
18 READING?

19 DO YOU WANT ME TO REPHRASE?

20 A. YES.

21 Q. I AM TRYING MY BEST NOT TO BE LEADING HERE.

22 BETWEEN THOSE TWO COURSES, HOW WOULD YOU
23 DESCRIBE THE QUANTITY OF READING COMPARED TO THE OTHER
24 COURSES HERE? DO YOU THINK THAT IT WOULD REQUIRE LESS
25 OR MORE READING THAN THE OTHERS?

1 A. YES. LIKE I STATED BEFORE, IT LOOKS LIKE YOU
2 NEEDED MORE HELP IN THE READING DEPARTMENT IN THOSE TWO
3 SUBJECTS THAN THE OTHERS.

4 Q. ALL RIGHT. THANK YOU.

5 DR. KITCHENS: YOUR HONOR, I WOULD LIKE
6 TO MOVE TO PUT THESE INTO THE RECORD, JOINT EXHIBIT
7 NUMBER 2.

8 MS. MEW: NO OBJECTION.

9 THE COURT: JX2 IS ADMITTED.

10 (PLAINTIFF JOINT EXHIBIT 2 IS ADMITTED
11 INTO EVIDENCE.)

12 BY DR. KITCHENS:

13 Q. SO WE TALKED ABOUT THE READING THERE, AND ALL OF
14 THE DIFFERENT THINGS THAT YOU PUT IN PLACE THERE.

15 CAN YOU DESCRIBE MY TOOLS THAT WE PUT IN
16 PLACE DURING HIGH SCHOOL?

17 A. WELL, IN HIGH SCHOOL YOU HAD A MORE PROFESSIONAL
18 TYPE OF PLANNER, BECAUSE WE WOULD GO TO BARNES AND NOBEL,
19 YOUR FAVORITE PLACE TO GET YOUR PLANNERS BECAUSE THEY
20 WERE BIGGER AND MORE PROFOUND. AND YOU COULD WRITE YOUR
21 SUBJECTS, YOU KNOW, TIMES AND DATES AND HAD PLENTY OF
22 SPACE FOR NOTES.

23 SO WE STILL HAD THE THING ON THE
24 REFRIGERATOR, BUT YOU WOULD HAVE YOUR PHONE SET FOR
25 ALARMS FOR YOUR HOMEWORK. I CAN REMEMBER THAT LIKE

1 YESTERDAY, 7 P.M., I COULD HEAR THAT ALARM GO OFF. YOU
2 WOULD JUMP STRAIGHT UP AND BE LIKE, I HAVE TO GO DO MY
3 HOMEWORK. AND YOU WOULD UP AND GO TO THE BACK AND YOU
4 HAVE TO BE IN PIECE AND QUITE. SO YOUR BROTHER AND I
5 WOULD STAY IN THE LIVING AREA AND YOU WOULD GO AND SHUT
6 THE DOOR IN YOUR ROOM, ISOLATE YOURSELF TO YOUR ROOM,
7 TURN YOUR PHONE OFF, NO TV. YOU HAD TO BE IN COMPLETE
8 SILENCE WHEN YOU DID STUDYING AND HOMEWORK.

9 AND COMPARED TO YOUR BROTHER, LIKE, YOUR
10 BROTHER COULD ACTUALLY CRAM THE NIGHT BEFORE FOR A TEST
11 AND GO IN THERE AND PASS IT. WE COULD NOT EVEN FIGURE
12 IT OUT. WE USED TO BE LIKE, HOW IN THE WORLD DOES HE DO
13 THAT? BUT THAT'S JUST HOW HE PROCESSES THINGS. HE
14 DIDN'T NEED ALL OF THAT TIME LIKE YOU DID, BECAUSE YOUR
15 TEACHER CAN TELL YOU ALL THERE'S AN EXAM IN TWO WEEKS.
16 YOU HAVE TO START STUDYING TONIGHT IN ADVANCE LEADING UP
17 TO THE DAY OF THE TEST.

18 AND WHENEVER YOU WENT TO SCHOOL, YOU
19 KNOW, AND THIS WAS EVERY DAY, YOU WOULD LEAVE HOME LIKE
20 AN HOUR BEFORE SCHOOL STARTED. AND SCHOOL WAS ONLY LIKE
21 10 MINUTES AWAY. AND YOU JUST FELT LIKE YOU JUST HAD
22 THE GO, RELAX, EAT YOUR BREAKFAST, GET YOUR THOUGHTS
23 TOGETHER FOR THE DAY, WHATEVER, AND YOU DIDN'T WANT TO
24 BE IN A RUSH, BECAUSE RUSHING JUST FRUSTRATED YOU.

25 Q. YOU SAID THAT RUSHING FRUSTRATED ME.

1 ARE THERE ANY EXAMPLES OF TIME MANAGEMENT
2 AND CORRELATION WITH EXCITEMENT?

3 A. OH, YEAH. I CAN REMEMBER YOU AND YOUR BROTHER
4 RIDING TO SCHOOL TOGETHER WHEN YOU FIRST STARTED
5 DRIVING, AND HE WOULD ALWAYS TAKE HIS TIME IN THE
6 MORNINGS. WITH YOU, YOU HAVE YOUR THINGS ALL READY
7 PREPARED AND READY TO GO, BECAUSE YOU HAVE TO LEAVE OUT
8 THE DOOR AT A CERTAIN TIME. AND YOUR BROTHER WOULD
9 ALWAYS BE LAGGING BEHIND, AND YOU WOULD ALWAYS SAY, COME
10 ON REGGIE, LET'S GO, LET'S GO. BUT I WOULD HEAR THE
11 FRONT DOOR CLOSE AND YOU WOULD BE GONE DOWN THE STREET.

12 Q. THIS IS VERY TRUE.

13 AND ALSO I WOULD ASK IN HIGH SCHOOL, HOW
14 WOULD YOU DESCRIBE THE RELATIONSHIP OF ME WITH MY
15 TEACHERS IN HIGH SCHOOL?

16 A. YOUR TEACHERS, THEY WERE GOOD WITH YOU. YOU HAD
17 A GOOD RELATIONSHIP WITH THEM.

18 Q. AND HOW DO YOU KNOW THAT?

19 A. BECAUSE, IF YOU EVER NEEDED HELP OR EXTRA TIME
20 DOING, YOU KNOW, TESTS OR WHATEVER, THEY WOULD ALWAYS
21 ALLOW YOU THAT TIME.

22 Q. AND MY HIGH SCHOOL GRADUATING CLASS, HOW WOULD
23 YOU DESCRIBE THE NUMBER OF HOW MANY PEOPLE WAS IN MY
24 HIGH SCHOOL CLASS, ROUGHLY? I KNOW THAT WAS A WHILE
25 AGO.

1 A. IT WASN'T REALLY BIG. I WOULD SAY -- I WOULD
2 GIVE OR TAKE 100, MAYBE 120, SOMEWHERE IN THERE.

3 Q. AND BY HAVING SUCH A -- THIS AMOUNT OF STUDENTS
4 IN A GRADUATING CLASS, WOULD THAT -- IN YOUR OPINION,
5 WOULD THAT ALLOW A TEACHER TO -- WOULD THAT ALLOW A
6 TEACHER TO BE ABLE TO FOCUS MORE ON THEIR STUDENTS TO
7 GET TO KNOW THEIR STUDENTS?

8 A. SURE. THE CLASSES WERE NOT OVERCROWDED. IT WAS
9 A PRETTY BIG SCHOOL, BUT IT WASN'T A LOT OF SENIORS
10 GRADUATING AND EVERYTHING, SO, YEAH, THEY COULD GET TO
11 KNOW YOU ALL INDIVIDUALLY PRETTY WELL.

12 Q. AND IF WE CAN PULL UP JOINT EXHIBIT NUMBER 3.
13 AND CAN YOU ZOOM IN, PLEASE.

14 CAN YOU DESCRIBE THIS PARTICULAR DOCUMENT
15 TO THE BEST OF YOUR ABILITY?

16 A. IT'S YOUR HIGH SCHOOL TRANSCRIPT, YES.

17 Q. AND CAN YOU SCROLL DOWN, PLEASE? NOW HERE, TO
18 THE RIGHT. AND DOWN, YES, OKAY.

19 WE SEE OUR ACT SCORE. DO YOU SEE THAT ON
20 THE RIGHT THERE?

21 A. YES, I SEE IT.

22 Q. DO YOU KNOW WHAT C-O-M-P STANDS FOR?

23 A. COMPOSITION?

24 Q. YES.

25 AND WHAT WAS THAT SCORE THAT WAS GIVEN ON

1 THE ACT?

2 A. I CAN'T TELL IF THAT'S A 6 OR AN 8, 16 OR 18, I
3 CAN'T SEE THAT GOOD. GO UP JUST A LITTLE. SCROLL IT
4 UP. HOLD ON. WHICH ONE AM I LOOKING AT, BECAUSE I SEE
5 TWO OF THEM. THAT ONE UP THERE, 14.

6 Q. YES.

7 AND NOW DO YOU SEE READING?

8 A. YES, 13.

9 Q. DO YOU SEE THE SCIENCE?

10 A. YES, TEN.

11 Q. CAN YOU SCROLL DOWN?

12 HERE, CAN YOU READ THOSE SAME EXACT
13 THINGS, COMP.

14 A. 18.

15 Q. AND THEN READING?

16 A. 15.

17 Q. AND THEN THE SCIENCE?

18 A. 20.

19 Q. SO IF WE CAN ZOOM OUT JUST A LITTLE BIT, PLEASE,
20 FOR PURPOSES.

21 BY LISTING OFF THOSE SCORES OF THOSE
22 PARTICULAR SUBJECTS, HOW WOULD YOU DESCRIBE THOSE SCORES
23 FROM THE FIRST TIME TAKING THE ACT TO THE SECOND TIME
24 TAKING THE ACT?

25 A. WELL, FROM THE FIRST TIME UP UNTIL THE SECOND

1 TIME IT LOOKS LIKE IMPROVEMENT.

2 Q. YES. THIS IS CORRECT. THERE WAS SOME SORT OF
3 IMPROVEMENT THERE.

4 WERE YOU AWARE OF ANY ACT PREP COURSES
5 GIVEN IN THE SCHOOL?

6 A. I CAN'T REMEMBER. I DON'T RECALL.

7 Q. ALL RIGHT. THAT'S JUST FINE.

8 DR. KITCHENS: YOUR HONOR, I WOULD LIKE
9 TO MOVE TO ADD EXHIBIT -- JOINT EXHIBIT 3 INTO THE
10 RECORD.

11 MS. MEW: NO OBJECTION, YOUR HONOR.

12 THE COURT: PX 3 IS ADMITTED.

13 (PLAINTIFF EXHIBIT 3 IS ADMITTED INTO
14 EVIDENCE.)

15 BY DR. KITCHENS:

16 Q. AND ONE THING THAT I WOULD LIKE TO -- I WOULD
17 LIKE TO MOVE A LITTLE BIT FROM HIGH SCHOOL AND GO INTO
18 COLLEGE. AND I DO -- YOU KNOW, JUST TO THE BEST OF YOUR
19 ABILITY ANSWER THE QUESTIONS. AND IF YOU DON'T KNOW THE
20 ANSWER, THAT'S PERFECTLY FINE AS WELL.

21 WHEN I WAS IN COLLEGE, HOW WOULD YOU
22 DESCRIBE THE COLLEGE THAT I WENT TO?

23 A. BERE? SO BERE WAS A REALLY GOOD PLACE TO GO
24 TO SCHOOL, BECAUSE THEY HAD A REALLY GOOD ACADEMIC
25 CURRICULUM. THE STUDENT BODY, THEY REALLY WORK CLOSE

1 WITH YOU ALL. THEY WANTED YOU ALL TO SUCCEED. THEY
2 DIDN'T DISCRIMINATE, YOU KNOW, BASED ON RACE, GENDER,
3 NOR DISABILITY. YOUR PROFESSORS, THEY WERE REALLY EASY
4 TO TALK TO AND REALLY EASY TO GET ALONG WITH. AND I
5 WENT TO THAT CAMPUS NUMEROUS TIMES THROUGHOUT THE YEARS,
6 AND IT WAS A REALLY GOOD PLACE TO BE, AND I WAS SO GLAD
7 THAT YOU WENT THERE.

8 Q. AND HOW WOULD YOU DESCRIBE THE STUDENT BODY
9 POPULATION OF BEREA COLLEGE?

10 DR. KITCHENS: AND FOR THE RECORD, IT'S
11 B-R-E-A COLLEGE.

12 BY DR. KITCHENS:

13 Q. HOW WOULD YOU DESCRIBE THE GENERAL STUDENT
14 POPULATION AT BEREA?

15 A. YOU MEAN AS IN SIZE, NUMBERS?

16 Q. YES, DO YOU RECALL?

17 A. YES, BEREA WAS A SMALL COLLEGE. I'M NOT SURE OF
18 THE NUMBER, BUT IT DEFINITELY WASN'T AS HUGE AS A
19 UNIVERSITY. IT COULD HAVE PROBABLY BEEN LESS THAN A
20 MIDDLE UNIVERSITY.

21 Q. OKAY. AND FOR THAT SAKE OF THAT, IT WAS A VERY
22 SMALL COLLEGE WITH AT THAT PARTICULAR TIME AROUND 1,500
23 STUDENTS, TOTAL FROM FRESHMAN YEAR TO SENIOR YEAR, ONLY
24 1,500 STUDENTS.

25 I WOULD LIKE TO ASK YOU, ARE YOU AWARE OF

1 ANY -- OF ME RECEIVING ANY ACCOMMODATIONS WHILE IN MY
2 SCHOOLING, WHILE AT BEREA COLLEGE?

3 A. WELL, YES. IF YOU -- IF YOUR TEACHER OR IF, YOU
4 KNOW, YOU WOULD GO TO YOUR PROFESSOR AND WOULD LET THEM
5 KNOW THAT YOU NEED, YOU KNOW, TIME FOR TEST TAKING OR
6 WHATEVER IT MAY BE, THEY WOULD GIVE IT TO YOU.

7 Q. AND HAVE YOU EVER MET ANY OF THESE PROFESSORS OF
8 MINE?

9 A. YES, I MET A COUPLE OF THEM, A FEW OF THEM,
10 UH-HUH.

11 Q. AND HAVE YOU EVER GONE TO CLASSES WITH ME WHILE
12 I WAS IN COLLEGE BEFORE?

13 A. YES, I WENT TO CLASS WITH YOU BEFORE.

14 Q. YES. SO YOU WENT TO SOME OF MY CLASSES WITH ME
15 BEFORE AS YOU JUST SAID THERE.

16 SO I WOULD LIKE TO ASK, WHEN YOU GO ONTO
17 A COLLEGE CAMPUS, SUCH AS BEREA COLLEGE, AND AS YOU JUST
18 MENTIONED YOU WERE THERE SO MANY TIMES, HOW WOULD YOU
19 VIEW THE RELATIONSHIP OF THE STUDENTS AND THE
20 PROFESSORS?

21 A. THE STUDENTS AND THE PROFESSORS, IT SEEMED LIKE
22 YOU ALL WERE PRETTY MUCH LIKE A FAMILY, BECAUSE THEY
23 WERE VERY INACTIVE WITH THE STUDENTS, ESPECIALLY WHEN
24 YOU ALL HAD THE WORK STUDY, YOU KNOW. WHATEVER
25 PROFESSION YOU ALL WERE, YOU KNOW, GOING INTO, THEY

1 WOULD KIND OF PUT YOU IN THE WORK STUDY TO WHERE IT
2 SURROUNDS WHATEVER YOU WANTED TO GO INTO, YOU KNOW WHAT
3 I'M SAYING.

4 Q. MM-HMM.

5 A. SO THEY WOULD REALLY WORK WITH YOU ALL, AND THEY
6 WOULD BASICALLY LET YOU ALL DO THE INTERACTIONS AND, YOU
7 KNOW, JUST DIFFERENT THINGS OF THAT NATURE. BUT YOU ALL
8 WERE PRETTY CLOSE KNIT, ESPECIALLY DR. BULLOCK.

9 Q. YES.

10 A. DR. BULLOCK, SHE REALLY TOOK YOU UNDER HER WING
11 AND SHE CALLED YOU HER SECOND SON.

12 Q. AND DO YOU THINK THAT THIS TYPE OF ATTENTION
13 RECEIVED BY STUDENTS THAT THE -- DO YOU FEEL THAT THE
14 SIZE OF THE SCHOOL PLAYED A PART IN THAT TYPE OF
15 RELATIONSHIP WITH THE PROFESSORS?

16 A. YES, DEFINITELY, BECAUSE IF IT WAS LIKE A
17 UNIVERSITY, I REALLY DON'T THINK THOSE PROFESSORS EVEN
18 KNOW WHO IS SITTING IN THEIR CLASSROOM. THEY JUST KNOW
19 YOUR NAME BY WHATEVER IS IN THE COMPUTER OR WHATEVER,
20 LIKE I JUST CAN'T SEE YOU HAVING NO RELATIONSHIP.

21 Q. SO WITH THAT STATEMENT THERE, DO YOU FEEL THAT
22 IT WOULD BE UNHEARD OF FOR A PROFESSOR TO GIVE A
23 STRUGGLING STUDENT UNOFFICIAL ACCOMMODATIONS ON THEIR
24 EXAMINATIONS?

25 MS. MEW: OBJECTION, YOUR HONOR, I AM NOT

1 SURE THERE IS A FOUNDATION FOR THAT.

2 THE COURT: DR. KITCHENS, IT SOUNDS TO ME
3 LIKE AN OPINION QUESTION, BUT GIVEN THAT THIS IS A FACT
4 WITNESS, YOU SHOULD BE ASKING ABOUT EXPERIENCES, FACTS
5 THAT THE WITNESS IS FAMILIAR WITH.

6 DR. KITCHENS: THANK YOU, SIR. YES, YOUR
7 HONOR.

8 BY DR. KITCHENS:

9 Q. AND LASTLY DUE TO TIME, CAN YOU EXPRESS TO THE
10 COURT HOW YOU FELT WATCHING YOUR SON GO THROUGH
11 EDUCATION -- GO THROUGH MY EDUCATIONAL CAREER?

12 A. YES. AS I STATED THE LAST TIME, BEING YOUNG AND
13 AFRAID TO PUT YOU ON RITALIN, I REALLY FELT LIKE -- I
14 MEAN, GOING THROUGH THIS RIGHT HERE, IT MADE ME FEEL
15 LIKE I FAILED YOU AS A MOTHER. BUT I DID THE BEST THAT
16 I COULD WITH WHAT I HAD, AND WHAT I KNEW HOW, LIKE, I
17 WAS A TEENAGE MOM, AND I DIDN'T KNOW HOW TO BE, YOU
18 KNOW, BE A MOTHER, OR WHATEVER. I DID WHAT I COULD AND
19 I LEARNED ALONG THE WAY.

20 AND SO EVERYTHING THAT I PUT IN PLACE,
21 YOU KNOW, AS FAR AS YOU GETTING UNOFFICIAL
22 ACCOMMODATIONS FROM YOUR TEACHERS BY SITTING NEXT TO
23 THEM, YOU KNOW, TO HELP DISCIPLINE YOU OR BE HANDS ON,
24 CLOSER TO YOU WHEN YOU NEED HELP, YOU KNOW, THE READING
25 CENTERS, THE TUTORS, EVERYTHING I REALLY FELT THAT I

1 DIDN'T REALLY FAILED YOU, I REALLY TRIED MY BEST TO DO
2 THE BEST THAT I COULD. AND UP TO THIS POINT, YOU KNOW,
3 IT'S BEEN PRETTY COOL BECAUSE YOU WERE -- YOU HAD THE
4 ABILITY TO OVERCOME, YOU KNOW, YOUR DISABILITY AND, YOU
5 KNOW, FOR ME, THERE IS -- IT'S A DIFFERENCE IN SPEAKING
6 ON THE THINGS THAT WENT ON COMPARED TO LIVING IT.
7 BECAUSE BEING A SINGLE PARENT WITH A KID WITH A
8 DISABILITY, IT'S A STRUGGLE. IT'S A REAL STRUGGLE. AND
9 NO ONE, YOU KNOW, IN THIS COURTROOM, ON THIS SLIDE WAS
10 THERE TO HELP US THROUGH OUR STRUGGLE. NO ONE WAS THERE
11 TO HELP DISCIPLINE YOU. YOU KNOW, NO ONE WAS THERE TO
12 LEND A HELPING HAND TO GIVE AID TO YOU OR, YOU KNOW,
13 JUST TO HELP ME WITH YOU, YOU KNOW, PERIOD.

14 SO FOR ME TO HAVE TO BE HERE TODAY, YOU
15 KNOW, AND YOU HAVE TO GO THROUGH THIS THING WITH SOMEONE
16 DENYING YOU ACCOMMODATIONS FOR HAVING A DISABILITY IS
17 VERY DISAPPOINTING TO ME, BECAUSE THEY REALLY DON'T KNOW
18 THE STRUGGLE. AND TO DENY YOU THAT AND TO MAKE IT SEEM
19 AS IF YOUR DISABILITY DOES NOT EXIST IS REALLY HURTFUL.

20 Q. LET ME ASK YOU ONE LAST QUESTION.

21 AND FOR THE RECORD, YOU DID A FANTASTIC
22 JOB OF RAISING ME AND MY BROTHER, WHO IS A CPA AND NOW
23 YOU HAVE A DOCTOR. I THINK YOU DID A DARN GOOD JOB,
24 ESPECIALLY COMING FROM THE PROJECTS OF CHATTANOOGA ALL
25 THE WAY TO WHERE YOU ARE THERE BY YOURSELF. SO I

1 APPLAUD YOU, MOTHER, FOR DOING THAT.

2 A. THANK YOU, I APPRECIATE IT.

3 Q. YES.

4 YOU ARE THE FIRST LADY OF THE CHURCH.

5 GOD PLAYS A PART IN YOUR LIFE, WOULD YOU SAY THAT TO BE
6 TRUE?

7 A. YES.

8 Q. HOW DID IT MAKE THE CHURCH FEEL KNOWING THAT I
9 WAS GOING -- THAT I WAS IN MEDICAL SCHOOL?

10 A. EVERYONE WAS EXCITED. EVERYONE WAS PROUD OF
11 YOU. THEY WERE CHEERING YOU ON, ENCOURAGING YOU, AND A
12 LOT OF THEM WOULD CALL YOU DR. KITCHENS. AND YOU WAS
13 STILL IN MEDICAL SCHOOL AND YOU WOULD TELL THEM, HOLD
14 ON, I AM NOT A DOCTOR YET. AND THEY WOULD TELL YOU, YOU
15 KNOW, YOU STICK TO THINGS THAT ARE NOT AS IF THEY ARE,
16 AND WE ARE FIRM BELIEVERS THAT YOUR WORDS HAVE POWER, SO
17 YOU HAVE TO KEEP FAITH.

18 Q. IF I CAN JUST FOR TIME SAKE, AND BECAUSE I DON'T
19 WANT IT TO -- THESE WORDS AND MY QUESTION OF ASKING YOU
20 WHAT EVERYBODY ELSE WAS SAYING, HOW CAN YOU -- HOW CAN
21 YOU JUSTIFY KNOWING THAT THESE PEOPLE ARE SAYING THIS AS
22 THE FIRST LADY OF THE CHURCH?

23 MS. MEW: OBJECTION, YOUR HONOR. I AM
24 NOT QUITE SURE WHAT THIS IS ASKING OR THE FOUNDATION.

25 DR. KITCHENS: FOUNDATION OF THIS IS --

1 WHAT I AM ASKING IS THAT -- I AM ASKING A QUESTION ON
2 WHAT OTHER PEOPLE WERE SAYING TO HER AND BY HER POSITION
3 WITHIN THE COMMUNITY. PEOPLE GO TO THAT PERSON A LOT
4 WITH ALL TYPES OF ISSUES AND THINGS AS WELL.

5 THE COURT: WE CAN SPEAK PRETTY OPENLY
6 HERE. WHAT POINT ARE YOU TRYING TO MAKE OR WHERE ARE
7 YOU TRYING TO GO?

8 DR. KITCHENS: I DON'T KNOW IF THERE WAS
9 AN OBJECTION COMING FROM THAT QUESTION, SO THAT'S WHY I
10 WAS GOING THERE.

11 THE COURT: REPHRASE THE QUESTION A
12 LITTLE, THAT WILL HELP ME.

13 DR. KITCHENS: YES, SIR.

14 BY DR. KITCHENS:

15 Q. AS THE FIRST LADY IN THE CHURCH, ONE OF THE
16 LEADERS IN THE CHURCH, AS YOUR SON, HOW WAS -- WHAT WAS
17 THE RESPONSE OF YOUR CHURCH CONGREGATION TO YOUR SON
18 GOING TO MEDICAL SCHOOL AND GRADUATING?

19 A. THEY WERE VERY PROUD OF YOU, AND THEY WISHED YOU
20 WELL, AND EVERYONE SUPPORTED AND ENCOURAGED YOU.

21 DR. KITCHENS: THANK YOU, YOUR HONOR, I
22 HAVE NO OTHER FURTHER QUESTIONS.

23 THE COURT: ALL RIGHT. MS. MEW, GO
24 AHEAD.

25 CROSS-EXAMINATION

1 BY MS. MEW:

2 Q. JUST ONE QUESTION ON CLARIFICATION, MS. KING.

3 YOU MENTIONED DR. KITCHENS GETTING EXTRA
4 TIME FROM HIS PROFESSORS IN COLLEGE?

5 A. UH-HUH.

6 Q. IS THAT BASED ON SOMETHING THAT DR. KITCHENS
7 TOLD YOU?

8 A. WELL, THAT, AND WHEN I TALKED TO THEIR
9 PROFESSORS, YOU KNOW, WE HAD CONVERSATIONS ABOUT, YOU
10 KNOW, HIM GETTING EXTRA TIME AND THINGS OF THAT NATURE
11 ALSO.

12 MS. MEW: I DON'T HAVE ANY FURTHER
13 QUESTIONS, YOUR HONOR.

14 THE COURT: DR. KITCHENS, ANYTHING ON
15 FOLLOW UP TO THE QUESTION THAT MS. MEW ASKED?

16 DR. KITCHENS: YES, YOUR HONOR, JUST ONE
17 QUESTION THERE.

18 REDIRECT EXAMINATION

19 BY DR. KITCHENS:

20 Q. YOU STATED EARLIER, MS. KING, THAT YOU USED TO
21 -- ON DIFFERENT OCCASIONS YOU WOULD ALWAYS COME UP TO
22 THE SCHOOL, YOU MENTIONED THAT YOU INTERACTED WITH
23 PROFESSORS, AND YOU ALSO TESTIFIED TODAY THAT YOU WENT
24 TO CLASSES WITH ME.

25 IS THERE ANY REASON FOR US -- IS THERE

1 ANY REASON TO DOUBT -- IS THERE ANY REASON TO QUESTION
2 THE VALIDITY OF YOUR TESTIMONY?

3 A. NO.

4 MS. MEW: OBJECTION.

5 THE COURT: DR. KITCHENS, I ACTUALLY
6 DIDN'T UNDERSTAND THE GIST OF WHAT YOU ARE GETTING AT.

7 DR. KITCHENS: YES, WELL, COUNSEL ASKED
8 -- COUNSEL ASK FOR HER IF I GAVE THE TESTIMONY -- IF I
9 TOLD HER THAT I GOT THE ACCOMMODATIONS, AND I WANTED TO
10 SET THE FOUNDATION THAT WITH HER REPEATED INTERACTIONS
11 ON CAMPUS, BEING IN THE CLASSROOM WITH PROFESSORS, THAT
12 A PARENT WOULD TALK TO THE PROFESSOR. AND THAT'S WHERE
13 I WAS GETTING AT.

14 AND NO FURTHER QUESTIONS.

15 THE COURT: OKAY, THAT'S FINE.

16 ANYTHING FURTHER FROM YOU, MS. MEW?

17 MS. MEW: NO, YOUR HONOR.

18 THE COURT: ALL RIGHT. MS. KING, THANK
19 YOU VERY MUCH FOR YOUR TIME, AND YOU CAN BE EXCUSED.

20 THE WITNESS: THANK YOU.

21 DR. KITCHENS: THANK YOU.

22 THE WITNESS: YOU'RE WELCOME.

23 THE COURT: NOW THE FLOOR IS BACK TO YOU,
24 DR. KITCHENS. WHAT WOULD YOU LIKE US TO DO NEXT?

25 DR. KITCHENS: GIVEN THE TIME, YOUR

1 HONOR, WOULD IT BE BENEFICIAL TO START TOMORROW?

2 THE COURT: I AM OKAY WITH THAT. I HAVE
3 LOTS OF THINGS TO DO, I ASSUME YOU BOTH DO, AND WE DON'T
4 HAVE A JURY HERE.

5 BUT I DO WANT TO ASK -- I THINK WE ARE IN
6 GOOD SHAPE AND ON TRACK IN THE THREE-DAY BUDGET THAT I
7 ALLOWED, I SENSE THAT WE ARE.

8 MS. MEW, YOU FEEL OKAY ABOUT THAT?

9 MS. MEW: YES, I THINK SO, YOUR HONOR.

10 IS IT MY UNDERSTANDING THAT DR. KITCHENS,
11 YOU WOULD PUT ON TWO WITNESSES TOMORROW, DR. SHEPARD
12 AND YOURSELF?

13 DR. KITCHENS: YES, MA'AM.

14 MS. MEW: THE ONLY THING, I WAS LOOKING
15 AHEAD TO YOUR HONOR'S MAYBE POTENTIAL ISSUE WITH IN THE
16 MORNING, AND I THINK THIS IS WHAT YOU SAID AT THE
17 PRETRIAL CONFERENCE, IF WE COULD HAVE A FAIR AMOUNT OF
18 ALSO FLEXABILITY ONCE WE ARE PUTTING ON, THAT'S FINE,
19 BUT NO, I AM OKAY STOPPING HERE FOR THE DAY.

20 THE COURT: OKAY. AND IN THAT CASE, WE
21 WILL GIVE EVERYBODY TIME TO RECOUP AND ORGANIZE
22 THEMSELVES FOR TOMORROW. AND WE WILL KEEP MOVING
23 FORWARD.

24 DR. KITCHENS: THANK YOU, YOUR HONOR.

25 THE COURT: ONE OF THE THINGS THAT I

1 WOULD LIKE YOU BOTH TO DO, I HAVE BEEN KEEPING NOTES ON
 2 WHAT EXHIBITS ARE ADMITTED, BUT I WOULD -- AND YOU CAN
 3 DO EACH EVENING, IT WOULD BE A GOOD THING TO DO JUST TO
 4 STAY ON TOP OF IT TO COMPARE AMONGST YOURSELF WHAT
 5 EXHIBITS ARE ADMITTED SO THAT WHEN WE GET TO THE END OF
 6 THIS WE ARE ALL IN AGREEMENT ABOUT WHAT HAS BEEN
 7 ADMITTED. AND PERHAPS IF THERE'S A DISAGREEMENT, I CAN
 8 RESOLVE IT BEFORE WE MOVE ON. OKAY?

9 DR. KITCHENS: YES, SIR.

10 THE COURT: OKAY. IN THAT CASE, WE WILL
 11 RESUME THIS TRIAL TOMORROW MORNING AT 9 A.M.

12 (COURT ADJOURNED.)

13
 14 I CERTIFY THAT THE FOREGOING IS A CORRECT
 15 TRANSCRIPT FROM THE RECORD OF PROCEEDINGS IN THE
 16 ABOVE-ENTITLED MATTER.

17 6-7-23
 18 DATE

Lynn Gligor
 OFFICIAL COURT REPORTER

19 LYNN GLIGOR, RMR.

20 I N D E X

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